



# Town of Vienna

## Meeting Minutes

### Town Council Meeting

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

---

Monday, May 7, 2018

8:00 PM

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

---

#### Regular Meeting

**Invocation: Mr. John Russo, Vice Chariman of the Baha'i Community of the Town of Vienna**

**Pledge of Allegiance to the Flag of the United States of America**

#### 1. Roll Call

**Present:** 7 - Council Member Tara Bloch, Council Member Linda Colbert, Council Member Pasha Majdi, Council Member Douglas Noble, Council Member Carey J. Sienicki, Council Member Howard J. Springsteen and Mayor Laurie DiRocco

#### 2. Approval of the Minutes:

- A. [18-852](#) Approval of the Regular Council Meeting Minutes of April 9, 2018, the Council Meeting for Closed Session only on March 19, 2018 and the Work Session Minutes of March 17, 2018 and March 19, 2018.

*It was moved to approve the Regular Council Meeting Minutes of April 9, 2018, the Council Meeting for Closed Session only on March 19, 2018, the Work Session Minutes of March 17, 2018 and March 19, 2018 as submitted.*

**A motion was made by Council Member Majdi, seconded by Council Member Sienicki, that the Minutes be approved. The motion carried by a unanimous vote.**

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

*None*

#### 4. Reports/Presentations

##### A. Report and Inquiries of Council Members

*Councilmember Colbert congratulated her fellow Councilmembers on their re-election to Council and she looks forward to working with them over the next two years.*

*Councilmember Noble stated the same to Councilmember Colbert as well. He also thanked the public that turned out to vote. They did have a good amount that turned out to vote and he appreciates everyone that made the time and said hello.*

*Councilmember Sienicki also congratulated the Mayor for her re-election.*

*Councilmember Sienicki thanked everyone for their work with Walk on the Hill and the Green Expo. It was a great event. She gave a big shout out to the Public Works Department, Police and Parks & Rec who all helped out. She also thanked Historic Vienna, Ayr Hill Garden Club, Vienna Community Band, Green Hedges and the residents who opened up their homes. It was a great day!*

*Councilmember Sienicki also thanked the Optimist Club for starting the Farmer's Market back up. It is good to have them back around the Community Center and the bike trail.*

*Councilmember Springsteen also congratulated everyone that won the election. It was nice having it back in the Community Center.*

*Councilmember Springsteen thanked the Town Manager and the staff for their help with the possible development of Wolf Trap Motel. There are some concerns about drainage and the Town Manager, Public Works Director and Planning Director went out to meet with some of the residents and they were very happy.*

*Councilmember Springsteen asked the Town Manager if they could get an update on the Community Center punch list.*

*Councilmember Majdi congratulated all his colleagues and thanked them for their support. He is looking forward to another two years, it is an honor to serve.*

## **B. Report of the Town Manager**

*Mr. Payton stated they do have an update on the Community Center punch list and asked Ms. Herman and Mr. Dan Straughtman from Orr Partners to come forward. Mr. Payton had sent a letter to Keller Brothers letting them know that they were going to move forward in completing the unfinished items on the punch list if they were not going to complete them to the town's satisfaction. He gave them until May 11th to complete them. He received a response letter back and based on the response he feels it was an insufficient response and will be sending them back a letter stating that he stands by his initial letter and they need to complete the items by Friday or the town will use their retainage to complete them. Mr. Straughtman stated Mr. Payton gave an excellent summary. They did receive their response that said all of the interior punch lists were done and there were 8 items on the exterior that were incomplete. Leslie's staff went through and back checked that. He went over the details with Leslie and the bottom line is that there are a lot of things that are not done. He invited Keller to come to the center to look at it personally. They stand by the position that as of May 11th they will start completing the work for them. He will work with Leslie to come up with a plan to make it happen.*

## **C. Report of the Mayor**

*Mayor DiRocco thanked all the citizens for coming out to vote. She congratulated all the Councilmembers that were re-elected and looks forward to working with all of them again over the next two years.*

*Mayor DiRocco reported that tomorrow night at the Community Center she will host Mayor@Your Service and there will be a viewing of a documentary titled "American Vienna." It showcases nine different Vienna communities around the United States including our Town of Vienna. It was created by two documentarians from Vienna Austria. The film will be showed at 7:30 p.m. in the Community Center.*

#### D. Proposals for Additional Items to the Agenda

*None*

#### E. Closed Session

*It was moved that the members of the Vienna Town Council be polled to affirm that during the first Closed Session convened this date, Monday, May 7, 2018, the Town Council met for discussion or consideration of personnel matters, specifically the interviewing of individuals for consideration of appointment and/or re-appointment to Town Boards and Commissions.*

*It was further moved that the Certification Resolution be adopted in accordance with State Statutes, and that the Town Clerk is authorized to execute the Certification Resolution.*

*And it was further moved that the Closed Session be continued to later this date, Monday, May 7, 2018 at the conclusion of the Regular Council Meeting in accordance with Virginia Code Section 2.2-3711.A.(3), for purposes of discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property.*

*Motion: Councilmember Bloch  
Second: Councilmember Springsteen  
Carried Unanimously*

*It was moved that the following Members of Council be nominated to the VML 2018 Policy Committees:*

*Community and Economic Development – Council Member Tara Bloch  
Environmental Quality – Council Member Howard Springsteen  
Finance – Council Member Linda Colbert  
General Laws – Council Member Carey Sienicki  
Transportation – Council Member Douglas Noble*

*It was further moved that Joanne Burke be re-appointed to the Community Enhancement Commission for a two-year term. Said term shall be retroactively effective as of April 19, 2018 and continue through April 19, 2020.*

*And it was further moved that Kana Furukawa be appointed to the Community Enhancement Commission as a student member for the 2018 through 2020 school years.*

*And it was further moved to reappoint Tim Fricker to the Bicycle Advisory Committee for a two-year term. Said term shall be retroactively effective as of April 30, 2018 and run through April 30, 2020.*

*Motion: Councilmember Bloch  
Second: Councilmember Sienicki  
Carried Unanimously*

**Item was approved as shown above.**

Aye: 7 - Council Member Bloch, Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Sienicki, Council Member Springsteen and Mayor DiRocco

## 5. Public Hearings

- A. [18-850](#) Public hearing on rezoning of 245 Maple Avenue W and 101, 107, and 115 Pleasant Street NW from C-1A Special Commercial Zone to Maple Avenue Commercial (MAC) Zone for the proposed Vienna Market

Attachments: [PC STAFF REPORT - 3-14-2018 - VIENNA MARKET MAC REZONING](#)

[194-02 Vienna Market Concept Plan 04-30-18](#)

[Vienna Market - Traffic Impact Analysis \(W+A Sub 12.12.17\)](#)

[Vienna Market 3D Renderings](#)

[Vienna Market Public Engagement Narrative](#)

[Rezoning Affidavit - Vienna Market](#)

[PC Memo on Vienna Market recommendation](#)

[PC meeting of March 14 final](#)

[MEMORANDUM - BAR Recommendations for Marco Polo Project - 3.9.2018](#)

*Mayor DiRocco called the hearing to order at 8:18 p.m. The Town Clerk called the roll and all members of Council were present.*

*Ms. Cindy Petkac, Planning & Zoning Director explained that this is a public hearing for the re-zoning of four parcels, 245 Maple Avenue West, 101, 107 and 115 Pleasant St. NW. It is a 1.91 acre site. There are currently five buildings and one accessory building on this site. The main building is the former Marco Polo restaurant. In addition there are a number of smaller businesses including the Vienna Arts Society. The existing zoning is C1-A. The Future Land Use Plan in the Comprehensive Plan 2015 Update shows the site as mixed-use. The site is eligible for rezoning into the MAC and the MAC is a voluntary zone district. The development that is proposed is a four-story, mixed-use development and includes 8,200 square feet of commercial retail space on the ground floor of the main building facing Maple Avenue. In addition there are 44 townhouse condominium units, 6 units are located above the ground floor retail space on Maple Avenue. Also proposed is a 2,700 square foot plaza at the corner of Maple and Pleasant St. It is approximately the size of the community garden at Vienna Elementary. The majority of the parking for the retail spaces is below grade and accessed off of Maple Avenue. There is a total of 33 parking spaces provided for the retail spaces. The townhouses are all rear loading with two driveways coming off of Church Street and they all include rear loading two car garages and then there are an additional 9 surface parking spaces for visitors. She pointed out that in the multimodal transportation impact analysis generally because of the reduction in the number of driveways, currently two on Maple Avenue, two on Pleasant and four on Church which they are reducing down to three. In with the change in use from what is allowed by right for commercial uses down to just 8200 square feet of commercial space and townhouses there is a nominal impact on the transportation network but there is an improvement because of the reduction in the driveways and also the applicant is now providing pedestrian accommodations on Pleasant and Church Street which currently do not exist. The project meets all the zoning requirements with a couple of*

exceptions. The front and rear yard setbacks are being met, the building height is less than the 54', the maximum that is permitted in the MAC is four stories. They are exceeding the open space requirement. They are requesting a 5% increase beyond what is allowed for the impervious and to offset that they are providing underground parking, the closure of the driveways she mentioned, they are proposing to use permeable pavements for the guest parking and there are recycling stations proposed. The Planning Commission advertised and held a public hearing March 14th that was continued to March 28th. In the presentation that staff made at the March 14th public hearing, they provided the information that she is providing to Council. She noted that while multi-family dwellings are permitted in the MAC they cannot be located on a ground floor facade facing Maple Avenue. The developer is proposing the 8200 square feet of ground floor retail in the main building facing Maple Avenue and the townhouse on Pleasant is also facing Maple Avenue and that is the area that fronts on the public plaza. In the discussion with the Planning Commission at the first public hearing they were discussing if there could be additional commercial provided on the ground floor facade and the concern by the developer is that it would require additional parking. What they discussed was opening up the west facing sidewall of the ground floor. Ms. Petkac continued with a powerpoint presentation and explained further detail.

Ms. Petkac further stated that this item also had to go to the Board of Architectural Review for their input. One of their concerns was the large amounts of unarticulated bland brick walls on both sides of the commercial space which is 20' of brick wall on the end. The other issue is because of the grade changes on this site and having to step down into some of the retail spaces. There was discussion on whether or not they could reduce the minimum of 15' clearance would they be able to keep all the retail spaces all at grade.

Ms. Petkac further presented the power point presentation.

Councilmember Springsteen asked if they met the parking requirements with guest parking. Ms. Petkac stated they are meeting the requirements for the townhouses, 2 spaces per townhouse and then the guest parking is one space for every five townhomes. The 8200 square feet of retail space would require 41 spaces but they can reduce down with a number of incentives which they have done.

Councilmember Sienicki asked Ms. Petkac about the concern with the destination retail aspects and also the land use with the Comprehensive Plan and if she had anything she wanted to share about that, if we should be concerned or is it ok. Ms. Petkac stated that the intent statement for the MAC does talk about pedestrian oriented mixed used development in destination style retail and there is a concern that 8200 square feet and the fact that the retail spaces are provided in six separate bays may not achieve the goal of destination style retail.

Councilmember Sienicki also asked about the underground utilities, specifically where the undergrounding of utilities would occur along there. Is there going to be any disturbance with underground utilities for Mr. Anderson with this project. Mr. D'Alexander, 11 Amsterdam Court, Gainesville, VA, applicant, stated that he believes they will be undergrounding the perimeter around the entire project. There are off site poles that are existing now along Pleasant Street, Church Street and a couple on Maple Avenue on the opposite side and they will not touch any of those poles in reference to moving the utilities from above ground to below ground. Anything that is crossing over from those poles into their development will stay on the pole, come down the pole, and underground from there so Mr. Anderson's piece will not be

*disturbed. He had asked him two years ago to not have a transformer on his property and none of that will be created whatsoever, anything that is there now will stay as is.*

*Councilmember Sienicki also stated that Mr. Anderson had some concerns about disturbances during construction. She thinks that some disturbances occurred from another construction site and he was concerned about his. Mr. D'Alexander stated that he has no problem with meeting with him and having a pre-construction meeting and also setting a monitor. He has built a couple of buildings in town that were only 6' away from a three story buildings and has not had any problems. He feels very confident that they will create an environment that will make it very comfortable for him and not be a concern.*

*Councilmember Springsteen asked Mr. Briglia if they would have to put in the approval that there will be no transformer on Mr. Anderson's property. Mr. Briglia stated that there is a proffer about the undergrounding of utilities which says part of the issuance of the occupancy permit the applicant shall place underground the property line or within the adjacent off site right of way, all the existing and proposed dry utility lines and poles that serve the new project at no cost to the town. If we want to incorporate this representation into proffer #4 thats fine. The final design plans are not in but if it is a detail of that proffer then it should be included.*

*Councilmember Sienicki stated there is an annotation in the general notes that elevations may change and that there is no real representation that the elevations of grading and things like that are going to stay the same and asked how that will work because things can get taller or grades can change. Mr. D'Orazio of Planning and Zoning stated that the applicant still has to meet the requirements of the MAC no matter what so in terms of building height he can't exceed what is allowed per code. As for the final design the applicant will have to go back before the Board of Architectural Review and during that time the final design with the materials and more of the details of the architecture need to be reviewed. Councilmember Sienicki asked if at that time they could change how the grading of the site goes and such. It worries her a little because it is very open ended on how it is phrased there. Mr. D'Orazio stated that the site plan still has to be of substantial conformance with the rezoning so they could not go way over or under what is proposed. Councilmember Sienicki stated it is in general notes #12 stating the owner reserves the right to make modifications to the vertical and horizontal location of the structures and associated grades shown hereon. Mr. D'Alexander stated they could add to that "as long as it meets substantial conformance to the original plan." He thinks that clarifies that. Mr. Briglia stated that the required proffers in the MAC require conformity to the general concept site plan and it is proffer #1, the general character of the re-development of the property shall be in substantial conformance to the concept site plan documents prepared by Smith Engineering dated October 2, 2017. If it deviates significantly from that then they will have to come back to Council and ask for a modification. They can tweak it when they come in with their design plans for a permit but if it is not in substantial conformance they have to come back to Council. If they want to add additional language to the proffer they can.*

*Councilmember Sienicki also asked if it was correct that the ADA improvements have been done on Pleasant St. Mr. D'Alexander stated that this came up in Planning and it was stated they thought they were done but all they did was add rumble strips at each location but did not upgrade the whole thing to the handicap entrance. He was planning on doing that on all four corners as part of the proffers.*

Mayor DiRocco asked Mr. D'Alexander about two of the items that the Planning Commission mentioned. One is the brown wall that you see when you are coming down Maple and looking at the corner of Pleasant. The BAR talked about some type of change in maybe the brick, some type of public art or something rather than a bland brown wall. She thinks that is a fair request, it is Maple Avenue and heading up hill so it is a very strong visual. Is there something that can be done there to improve that area and break up the brown. Mr. D'Alexander stated that the conversation they had with the BAR and the Planning Commission was to do to some sort of brick relief around the corner and then possibly give the Art Commission the opportunity to put a mural there or on those walls as another option as a proffer. He totally agrees that it would be nice to have some sort of visual, he would love to see a mural there. It is similar to what they agreed to two years ago. He would gladly add it to the proffers.

Mayor DiRocco also asked about the step down into the "grade A" retail and isn't it hard if you want "grade A" retail isn't it hard if you are having a step down. Isn't sunken retail something that tends to not be "grade A" and more "grade B" or less attractive? She knows that Planning or BAR talked to him about possibly keeping it at street level and having eyes right into the commercial which can make it stronger commercial. She asked what was the reasoning for not doing that. Mr. D'Alexander stated it was a topography nightmare but the net of it is as you work your way up the street the grade change from the corner to the underground parking structure to the top corner of Pleasant St, is almost 11 1/2' so it moves pretty rapidly up over that section but what they were able to do was in the first 3 bays they are 20' tall bays so they are large enough with a lot more glass visually to the street so you can then feel like that retail is on street level. He provided further information while showing a powerpoint. He is not asking for variances or a single item that is outside the scope of the MAC district. He still feels confident that he doesn't want to do that. He believes the balance of that 2 1/2' to 3' does not change the value of that real estate and thinks this project is a much cleaner project built this way. There are six bays and that is just the look he was going for but he can rent the entire space to one group. He would not expect six units to be used individually, he would expect 2, 2 and 2, probably 3 different tenants. The goal was to make it look more in the line of in town retail versus strip mall and big box and that is why it is broken up into six specific bays but you will be able to throw a ball through the whole thing when it is done, it is one large 8200 square feet of space. There was further discussion/explanation on the retail space. Mayor DiRocco would like to see more commercial space. Mr. D'Alexander stated that he does not have the parking for it.

Councilmember Noble stated that the Planning Commission, BAR and staff had comments or recommendations and they received nothing in the material on how the applicant was going to address those recommendations. We are hearing about it narratively during this conversation but he strongly would have preferred it being part of the portfolio for this evening as opposed to testimony from the applicant. We are kind of doing this adhoc and feels kind of rushed.

Councilmember Springsteen asked if the traffic numbers have been updated in the last three years because they don't appear to be.

Mr. D'Alexander stated that every time they met with a committee they took their initiative's and recommendations and incorporated them into the next level of drawings as they did in the past and plan to do every single time. In the first set of drawings that came in front of BAR didn't have the side glass facing the plaza and outdoor seating, it didn't exist until the meeting with Planning and staff putting it in

front of them saying this is one of our concerns and this is the way to eliminate it. In reference to the BAR asking for more undulation in the brick, you can see in the elevations now they have created several lines of brick undulating up the side of the building on the front facade at minimum and wrapping it around the side. They are not taking it all the way to the back because they wanted to offer that as an "art" wall at one point. Every single conversation has been added as they have gone through it. The last one was the Planning Commission discussing the side of the building, the opening of the retail to the plaza, adding outdoor seating in front of the townhouses side of the building and then using that space as retail. He thinks they have accomplished the park retail contiguously up the street to the corner.

Mr. D'Alexander continued with a power point presentation. He stated that his goal is to walk them around the building and the street scape and then take questions afterward. He wants to give them an idea, based on the first plan, where they are today with this plan, the reasons why this plan is different and to address any other concerns. The outdoor seating took over the space that was originally designed to do a bike share but because of the requirements for the bike share and the Town of Vienna's situation where they are not in a position to grant bike share at this moment in time, they were asked to remove it from the project so they were able to use this space for this instead. He thinks it opens up the outdoor seating and park area in the front as a really nice outdoor pedestrian place. The second thing he showed was down Pleasant St. where in the original plan there was 11' setbacks and Council had change it to 15' setbacks and what that did was allow the grass strip on the left hand side, originally they had a sidewalk directly against Pleasant St. He continued to show the powerpoint and provide further details of the project. One of the issues with the last plan was they only had one entrance into the project and an entrance into the retail. In speaking with the Planning Commission, one of the concerns were integrating the park as part of the retail which he thinks they did by opening up that whole area and making it outdoor seating for retail and adding the glass around the side.

Mayor DiRocco stated that the spirit of the MAC is to have mixed use to support commercial and 8200 square feet of commercial is not a ton of commercial along that area. The point she was trying to make with adding the townhouse condominium that faces Maple Avenue, to make that commercial whether it be for offices or some other type of retail commercial space was to increase, not take away, from something off Maple Avenue, that would not make sense. It was to increase the amount of commercial in that area and get it closer to 10,000 square feet. She appreciates that even though it is six different bays it doesn't need to be six different businesses it can be opened up for one large business. Mr. D'Alexander stated this is similar to what they did down at the Bazin's building and custard building where it is broken up into separate spaces but could be one large tenant. It just looks from the outside as if it is smaller, more conducive to an in-town feel and not down in Tysons Corner. His goal was to make it feel more in town and invite those local retailers and not feel this space would be overwhelming for them. He felt this was very important because he wants local retail owners in this space. Mayor DiRocco stated that she thinks all of Council want the same thing.

Mayor DiRocco stated she appreciates the improvements along the pedestrian access, they are all excellent. Mr. D'Alexander stated right now in all the buildings that exist there to date there is probably just shy of 10,000 square feet of main level retail. Mayor DiRocco stated that she is just asking for a little more in the other building to get him closer to 10,000 square feet. Mr. D'Alexander stated this is quality retail vs. quantity in his opinion and that is his goal. Mayor DiRocco asked



*why there couldn't be more, was it because of parking. Mr. D'Alexander stated that was correct.*

*Councilmember Noble stated with it being late already he would like to hear from the public on this.*

*Mayor DiRocco asked Council if they had any preliminary questions before that.*

*Councilmember Colbert stated that it could be true that there could be a restaurant and then there would be people living above and doesn't know if that is different. Mr. D'Alexander stated there would be a solid separation between that retail and the six residents above it. He specifically designed it that way so it feels and acts very different, it was similar to what they tried to do last time. The moment you turn that corner and you have a residential street scape, it would feel more like Dupont Circle where they take those old houses and turned them into retail on the level but it is a much different style setting than suburban Vienna, VA. He thinks it is the spirit of what they are trying to create, specifically because he is desperately trying to keep traffic out of that neighborhood.*

*Councilmember Colbert asked about the underground parking, how the spaces are and will there be pillars. Mr. D'Alexander stated there will be. They originally had 35 but they lost 3 or 4 which should help people getting in and out comfortably. Because of the footprint of the retail the center aisle that could be 23' he believes it is 27 or 28' wide which is big and wide and allowing more flexibility with turning.*

*Councilmember Noble asked staff with regards to the scoping elements for the traffic impact study, they specified the trip generation ninth edition manual and the tenth edition manuals but not for at least eight months and is wondering why that was the case. He also stated that the analysis methods using the software is one generation old, it is version 9 instead of 10 which refers back to capacity calculations from the year 2000 and those formulas versus the ones from 2010. That second part may be because it is what VDOT's analytical method requirements are but is wondering why the first one is the case, is it a requirement? Mr. Gallagher stated the original traffic study was done two years ago and with this amendment they didn't have them go through the whole big process again of counting etc. and yes it was a VDOT requirement at the time.*

*Mayor DiRocco submitted three letters that Council received into the public record. One from Charles and Laura Anderson, Patty Hanley and Rappaport.*

*Mr. Rod Mayberry, owner of the property that faces Pleasant St. across from Mr. Anderson. His concern is during the construction process. The ground in those areas is very unsettled. They put a small subdivision in next to his property last year and during that process his building was shaking like there was an earthquake. The developed fractures in the brick walls outside as a result of the earth moving and settling equipment that they used. His concern is that they had to pay for the repairs themselves with the last issue and he doesn't want to see any more damage from this project. There is potential for earth shaking and he would like to see something set aside to cover damages to the building in the area as a result of the construction. Mr. D'Alexander stated that in reference to earth shaking and the possibility of foundation issues, he can offer a monitoring process that you can put on any cracks and monitor them to see if they get any bigger or anything else happens. He has no problem with using those monitors to make sure he is not creating any damage that didn't already exist. He can easily add them however they*

want him to do that. Councilmember Noble stated that monitoring is one thing but if there is any damage displayed what would he do in terms of follow-up. Mr. D'Alexander stated that the process with the monitoring is that it is not an after thought, if there begins any movement whatsoever it sends off a signal to the contractor and you stop what you are doing so you don't create damage. If there is any structural motion you stop your construction and re-evaluate. It is a process to keep you from damaging any properties. Councilmember Springsteen asked the Town Attorney if you could put up a bond for that. Mr. Briglia stated that discussion is turning into a discussion of a creation of a private nuisance as opposed to a public nuisance. We don't generally require bonds for potential private nuisance because they are speculative and it is not a situation that the town gets involved in. Its a condition that may or may not occur in any development. He doesn't think the town has ever required a developer to post a bond to abate a private nuisance. He doesn't think there is a mechanism in our zoning ordinance to cover this. We have bonds for public improvements and that is not what this is. Councilmember Springsteen asked what happens if things are going well and then something happens and causes damage to someones property, is the developer liable for that. Mr. Briglia stated that it is speculative generally for the town to be involved in the posting of a bond to abate or to cover, what could be just deemed as a private nuisance. He does not know of a mechanism in our zoning to require any developer to post a bond. Councilmember Noble asked if Mr. D'Alexander can make a proffer for installing monitoring equipment with a warning system, however, even if they monitor it and it stops construction that it is effectively a private nuisance issue which is at the discretion of the homeowner working with the private developer, effectively because we can't create the remedy for that as the town. Mr. Briglia stated that was correct and if the developer says he understands the concern and is willing to monitor it he does not think that is a problem with the proffer.

Councilmember Sienicki asked if it was ever common to do a pre-existing site analysis of what the existing is so if something happens in the future, would that be something the developer or business owner would get into individually or is it something the town could ask for. Mr. Briglia stated he did not know the mechanism under the town's zoning ordinance that would require basically an environmental impact study. It is required for certain projects but it is not in our zoning ordinance currently.

Mr. John Runyon, 315 Courthouse Road stated that he was the carpentry shop steward when they built 101 Constitution Avenue and one of the jobs he did in the very beginning is put tape things to all the basement walls and if there was any shift in the foundation you would see it. If they had damage to any of the buildings they could have been sued which is the word you are looking for, the town has nothing to do with that. The monitoring is the way you can prove in court that a wall moved so much. The contractor is responsible for any damage he inflicts on anyone else.

Councilmember Noble stated that he saw in one of the conversations with BAR, that there were some trees removed and then added back in along Maple Avenue because of the sight distance and asked if it was correct that they were back in. Mr. D'Alexander stated that originally there were some that blocked the site line coming up Pleasant and Maple Avenue and all the ones that were in the site line were removed which still allowed them to have the first three trees coming up from the entrance towards Pleasant St.

Councilmember Noble asked Mr. D'Alexander about the facade of the townhomes on the end, facing Maple, the brick that is shown seems rather plain and bricky and he

would like it to be something between what the pretty picture shows and what it is today. Councilmember Noble stated that where he is going with this is when they get back to the next BAR conversation is that they go from basically a solid brick wall with a bay displayed to something more engaging. Mr. D'Alexander stated he believes that will all be met at the BAR.

Councilmember Noble stated he is not a big fan of the extra two retail spaces being up with the townhomes but realistically even though Mr. D'Alexander stated there was not enough parking but there is if you excavate more into the back, so if the interest is to add additional parking spaces to support retail on that corner, yes, it can be physically done.

Councilmember Noble stated that in the Town Code, Section 17-409 it says "private streets shall not be approved nor shall public improvements be approved on any private street," and in Mr. D'Alexander's plan set he calls the interior street Market Square and calls it a private street and so we don't conflict with the code it is either not a private street and it's a driveway or it is something different, but our code said it can't be a private street so we need to figure that one out. Mr. Briglia stated that it came up in the Planning Commission as well and we have allowed private streets on every single parking complex as long as it is shown in the site plan and approved by Council as a condition of a rezoning, Council may grant it. Councilmember Noble stated that the code specifically prohibits it so he wonders why anyone has approved it. Mr. Briglia stated that he would say it frowns upon but it obviously doesn't prohibit it because we have done it time and time again in the town including Shepherdson Lane. Councilmember Noble stated when something says "shall not" and he deals with law and codes in traffic engineering all the time and "shall not" means shall not. It is the highest level of standard that you can have and if we have allowed it in the past, we have done something wrong as a Council. Going forward, no matter what he calls the street, it can't be a private street because it conflicts with our underlying code. Mr. Briglia stated that there is a separate code section in Chapter 7 that states "Council may grant variances and deviations," and the town has and that is what you are granting if you allow it. Shepherdson Lane and the town house development on Center St. North is a case in point, it is a private street and it was granted as a condition of the rezoning and granted as a condition under Chapter 17, Council can grant variances. It is not a variance with a capital "V" that goes to the BZA, it is a variance granted by Town Council. Mr. D'Orazio stated that he believes Councilmember Noble is referring to the subdivision ordinance and that would be for subdivision design guidelines and this project is not a subdivision. Councilmember Noble stated that he thought there were multiple lots that they are separating and combing again which in effectively is a subdivision with a rezoning. Mr. Briglia stated that issue came up with the Planning Commission and his opinion was that this was the opposite of a subdivision. Councilmember Noble said alright but he doesn't agree. Mr. Briglia stated that there were some questions very similar with the Planning Commission but he keeps looking at Shepherdson Lane and even though he was not the Town Attorney at the time, but he agrees with the interpretation of the application with the Town Code. Those were two parcels that were combined in a rezoning and part of the site plan conditions were a private drive. There were specific provision on fire lanes and making sure there was a turn radius which were building code issues that were incorporated as part of the proffers for the rezoning and they were incorporated into the design plans and this Council is permitted to do that under the zoning ordinance. What they do look for with designs of roads, is they look to where they are going to get the design element from and they go to Chapter 17 where it talks about the design of streets. Pretty much all of our town house developments have

private streets, going back to the 70's and beyond. In terms of consistency in our zoning ordinance and the application, this is not any different than what we have done in other multi family developments. Councilmember Noble stated that the other thing on private streets, at least with his current understanding of Federal and State traffic requirements, is that any signing and pavement markings on private streets have to conform. So a stop sign has to look like a real stop sign and pavement markings have to be like the real pavement markings and as long as they do that he will be ok with it.

Mayor DiRocco stated that she completely understands the desire and obviously we don't want any cut through traffic going through neighborhoods. Windover is a lovely neighborhood and we want to make sure that this project compliments that and looks attractive. If they continue the commercial in that one unit, it basically has the corner, so the commercial is basically that entire corner from the corner of Pleasant part way down Maple Avenue. Since she thinks the entrance could be put on the side facing Maple Avenue and it would easily provide a nice separation that then goes from the townhouses back. She doesn't think that would be a breaking point because it is all along a set frontage of Maple Avenue. That being said she understands the concern about parking for staff. It sounds like if the economics don't make sense you could move it back. Is there anything within our parking code that would allow the extra spaces, could that work? Ms. Petkac stated that they can reduce through various incentives. There are incentives if you go from schedule A, you can reduce down 15% or 7 1/2%. You can reduce down your parking but you can't reduce down more than 48% of what is required. If he added another 800 that would be 8800 square feet of parking and would require 44 spaces and 48% of 44 you could reduce down 21, so theoretically he could reduce down to 23 spaces. He has 33 spaces right now. If he provided additional incentives such as 1% of public art and then there is a provision reducing the driveways, which he is taking the incentive for that already. If each driveway counts towards the incentives he may be there right now. Mayor DiRocco stated that she knows we want quality retail and not trying to get away from that, she shared some of her concerns about lacking retail along Maple Avenue. Mr. D'Alexander stated that he wants to be able to lease the space and first thing is it would have to be 15' high which then the hole building would have to go 6' higher into the air verses everything else around it, 15' for first floor retail is a requirement in the MAC code.

Councilmember Springsteen stated that he understands the concern with commercial but he looked at the letter from Rappaport and he is fine with that. He doesn't think this is something they should fall on their sword over. He thinks there are too many issues with parking to add more commercial. He is happy with what they have done here. His concern is that at some point he needs to make money on this or he is not going to do it. He is happy with the way it is right now.

Councilmember Sienicki asked about the donation to the Capital Improvement Projects. There is a reference to "Safe Routes to School" on Courthouse and she is wondering if there is a Safe Routes to School for Courthouse. Mr. Gallagher stated he is not familiar with a Safe Routes to School on Courthouse, there is one on Cottage. Councilmember Sienicki stated she was not either and that is why she is questioning it. It states "Safe Routes to School" on Old Courthouse Road NE. Mr. D'Alexander stated that they can add to this proffer or like kind project as directed by Director of Public Works. Councilmember Sienicki also referenced a curb, gutter and sidewalk project on Ayr Hill and she does not believe that is going forward any longer. Some of the references may have just not gone forward for one reason or another and she thinks if we specify what it is and say a Safe Routes to School, W &

*OD Trail connection or a curb, gutter and sidewalk project in lieu of specifying the exact. Mr. D'Alexander stated he was for anything that he could add to help. His goal here is that he looked at the CIP, whatever version he got, and saw those projects, liked them and put them in. He will add "or projects directed by Planning & Zoning or Public Works. Mayor DiRocco asked if we had to specify a Safe Route or can we say any type of transportation or pedestrian path. Councilmember Noble asked Mr. Briglia if a proffer has to be specific or can it be general. Mr. Briglia stated because certain types of proffers are not appropriate. He thinks they should definitely be capital improvement projects because those are the things we go through a very specific procedure and process to approve. If he wanted to dedicate them to safe route projects or W&OD what Councilmember Sienicki mentioned he thinks is a great idea. Make them a broad category but are clearly CIP projects. Mr. D'Alexander said that totally works.*

*It was moved to close the public hearing on the proposed rezoning of 245 Maple Avenue W and 101, 107, and 115 Pleasant St. NW.*

*Motion: Councilmember Springsteen*

*Second: Councilmember Colbert*

*Carried Unanimously*

*It was further moved to approve rezoning of 245 Maple Avenue W and 101, 107, and 115 Pleasant Street NW from C-1A Special Commercial Zone to Maple Avenue Commercial (MAC) Zone for the proposed Vienna Market with all proffers accepted as amended and allowing the developer to determine the usage of the end unit Townhouse on Pleasant St. as long as he meets current code and parking requirements.*

*Motion: Councilmember Springsteen*

*Second: Councilmember Bloch*

**The item was approved as shown above.**

**Aye:** 7 - Council Member Bloch, Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Sienicki, Council Member Springsteen and Mayor DiRocco

## **6. Regular Business**

### **A. [18-861](#)**

Request to extend professional services contract with and increase funds to Kimley-Horn for consultation in support of public parking analysis

**Attachments:** [Kimley-Horn Scope](#)

[Kimley-Horn PO](#)

[Kimley Horn Renewal to 4-30-2019](#)

*It was moved to approve extension of the professional services contract with Kimley-Horn for professional engineering services and consultation in support of public parking analysis in an amount not to exceed \$40,000.*

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

**Aye:** 7 - Council Member Bloch, Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Sienicki, Council Member Springsteen and Mayor DiRocco

**B. [18-851](#)** Intent to adopt the Real Estate Tax Rate for FY 2018-19

**Attachments:** [Notice of Intent to Adopt - Effective Tax FY19](#)  
[Resolution Tax Rate FY 18-19](#)

*It was moved to approve a resolution setting tax rates for the fiscal year beginning July 1, 2018 as follows:*

- \* Real Estate Tax Rate of \$0.2250 per \$100 of assessed valuation*
- \* Bank Net Capital Tax Rate of \$0.80 per \$100 of valuation*
- \* Residential Utility Tax Rate of 20% of the first \$15*
- \* Commercial Utility Tax Rate of 15% of the first \$300."*

*and it was further moved that the Town Clerk be directed to advertise a Notice of Adoption.*

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

**Aye:** 7 - Council Member Bloch, Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Sienicki, Council Member Springsteen and Mayor DiRocco

**C. [18-848](#)** Intent to Adopt the FY 2018-19 Budget

**Attachments:** [Notice of Intent to Adopt FY 18-19 FINAL](#)  
[Budget Transparency WS FY 18-19](#)

*It was moved to adopt the \$38,651,570 FY 2018-19 proposed budget as amended by the list of proposed changes and it was further moved that of the said total, \$25,463,090 be appropriated for General Fund expenditures; \$4,223,290 be appropriated for Debt Service Fund expenditures; \$8,601,190 be appropriated for Water and Sewer Fund expenditures; and \$364,000 be appropriated for Stormwater Fund expenditures and it was further moved that the Town Clerk be authorized to advertise a Notice of Adoption.*

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

**Aye:** 7 - Council Member Bloch, Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Sienicki, Council Member Springsteen and Mayor DiRocco

**D. [18-847](#)** Revision to General Fund Balance Policy

**Attachments:** [GASB 54 Fund Balance Policy Revised 5-7-18](#)  
[GASB 54 Fund Balance History](#)

*It was moved to amend the General Fund Balance policy, increasing the Unassigned Fund Balance to 15% of the subsequent budgeted year's expenditures.*

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

**Aye:** 7 - Council Member Bloch, Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Sienicki, Council Member Springsteen and Mayor DiRocco

**E. [18-843](#)** Request to utilize Whitman, Requardt & Associates, LLP for Park St NE sidewalk

improvements

Attachments: [WRA Park Street NE Improvements Design Scope and Fee 03-01-18](#)  
[RFP 17-02 ONCALL ENG FOR FEDERAL-STATE PROJECTS](#)  
[RFP 17-02 Summary Report and Award Recommendation](#)  
[Evaluation-Initial Selection RFP 17-02](#)  
[Project Administration and Appendix A Park Street](#)  
[Park Street NE Sidewalk mailing labels - updated 4-19-2018](#)  
[Park Street NE Sidewalk Project Design Notice Letter](#)

*It was moved to award an engineering services contract for Park St NE sidewalk improvements to Whitman, Requardt & Associates, LLP in the amount of \$51,752, utilizing RFP 17-02.*

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

**Aye:** 7 - Council Member Bloch, Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Sienicki, Council Member Springsteen and Mayor DiRocco

**18-873**

#### Second Closed Session

*Meeting recessed into Closed Session at 10:28 p.m.*

*Motion: Councilmember Bloch*

*Second: Councilmember Colbert*

*Carried unanimously*

*Mayor DiRocco called the regular meeting back to order. The Town Clerk called the roll and all members of Council were present.*

*It was moved that the members of the Vienna Town Council be polled to affirm that during the second Closed Session convened this date, Monday, May 7, 2018, the Town Council met for discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property.*

*It was further moved that the Certification Resolution be adopted in accordance with State Statutes, and that the Town Clerk is authorized to execute the Certification Resolution.*

*And it was further moved that the Closed Session be continued to Monday, May 14, 2018 at the conclusion of the Council Work Session in accordance with Virginia Code Section 2.2-3711.A.(3), for purposes of discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property.*

#### Second Closed Session

**Aye:** 7 - Council Member Bloch, Council Member Colbert, Council Member Majdi, Council Member Noble, Council Member Sienicki, Council Member Springsteen and Mayor DiRocco

## 7. Meeting Adjournment

*It was moved to adjourn the meeting at 11:15 p.m.*

\_\_\_\_\_  
*Laurie A. DiRocco, Mayor*

*Signed / Dated:* \_\_\_\_\_

*Attest:* \_\_\_\_\_  
*Melanie J. Clark, Town Clerk*

*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.*