



Town of Vienna

127 Center Street South
Vienna, Virginia 22180
p: 703.255.6341
TTY 7111

Meeting Minutes Planning Commission

Wednesday, March 14, 2018

8:00 PM

COUNCIL CHAMBERS-VIENNA TOWN
HALL

Regular Meeting

1. Roll Call

All commissioners are present.

2. Communication from Citizens and/or Commissioners

Chairman Gelb welcomed Cindy Petkac new Director for the Department of Planning & Zoning, stating that he looked forward to working with her.

There being no further communications Chairman Gelb opened the regular meeting.

3. Regular Business

A. 135 Center Street South

ITEM NO. 1

Recommendation to the Town Council on a request for a waiver for an approved townhouse condominium development on property located at 135 Center Street South, in the RM-2, Multi-Family, Low Density zone. Application filed by John Sekas of Sekas Homes, Ltd on behalf Willow Creek Estates, LC, owners.

Staff Planner, Michael D'Orazio provided staff's report, stating that the applicant is requesting a waiver from the wall requirement at the approved 17-townhouse development, Cadence on Center located directly next door to Town Hall. He stated that in place of the required 6-foot tall masonry wall the applicant is requesting to construct a 45-foot length portion of the wall and to plant four (4) additional trees. Originally, the project called for eight (8), ten-foot tall trees. The waiver request includes six (6), seven-foot tall trees. There being no questions from commissioners the applicant was invited forward to present.

John Sekas residing at 9800 Clarks Crossing Road, Vienna VA stepped forward to speak. Mr. Sekas explained that six (6) of the seventeen (17) townhomes have been sold with a majority of the buyers residing in town. When he installed a fence for one of the neighbor's they determined that the approved wall and landscaping would not fit. He has spoken with the surrounding neighbors; one of whom had concerns with lights from cars turning around in the development. That is why they are proposing the 45-foot section of wall. The ultimate goal was to have no wall to allow room for the new trees to grow, but the 45-foot section would better screen car lights than trees.. It is applicant's intent to improve the area but there is not enough room for everything. The fences are located on private property. He would like to add more trees for screening, increasing their size significantly. Access will then be

available for any necessary tree maintenance. Mr. Sekas provided a letter of support from one of the neighbors, stating that the other affected neighbor has said that he does not want any trees planted along their side of the property. Per the approved plan they are required to plant trees in the locations shown on the plan. In response to those concerns, Sekas has pulled trees away from the property and moved a couple in front of the other neighbor's property. He stated that they have tried to appease both neighbors, stating that it is not a cost issue. He is trying to do what is best for the project.

Commissioner Cole asked who will be responsible for maintenance and replacement of onsite trees. Mr. Sekas answered the HOA (Home Owner's Association) will be. Language stipulating those requirements will be included in their documents. Commissioner Cole noted that it being a small HOA it will be more expensive to maintain between the new wall and trees. Mr. Sekas stated that it would be a bigger burden for the HOA to maintain the wall. Commissioner Cole noted that screening is just one reason for requiring a wall. The other is to prevent trespassing. If the neighbor decides to remove their fence then there is the potential for pedestrian cut through. Not just for single-family but also from the townhouse property. She stated that noise abatement is another issue alleviated by a wall for issues like trash pickup. Mr. Sekas stated that they are installing a 45-foot section of wall in a better location. It should alleviate both noise and light issues. Commissioner Cole asked for the trash pickup schedule. Mr. Sekas responded that it will be twice a week by a private company. Commissioner Cole asked if pickup will be from a centralized dumpster. Mr. Sekas answered no, it would be from cans at each dwelling that are kept in the garage.

Commissioner Baum stated that it will be listed within the HOA documents that they must maintain the trees. Mr. Sekas agreed, stating and that they will be replaced if one comes down. Commissioner Baum asked if the particular type and height of tree will be listed. Mr. Sekas answered that they are to be no smaller than the original trees planted. Commissioner Baum stated concern in instances if the trees die. Mr. Sekas stated that the fees will be reasonable at \$300 a month. Owners spending between nine-hundred thousand to one million dollars on a unit will want to keep the site nice.

Addressing staff, Commissioner Miller asked if the wall had a setback requirement. Mr. D'Orazio answered no, stating that there is no setback requirement for a wall between zones. Mr. Sekas explained that they have 20-feet of space for everything but the trees will need more than 10 feet of room for growth. Additional discussion followed.

Commissioner Kenney disclosed for the record that he is currently working on a PTA project with the applicant. In reference to the application, he asked whether Mr. Sekas built the fence that is currently shown. Mr. Sekas answered that he built half of the fence. The other half was already there. Commissioner Kenney asked whose property that it is on. Mr. Sekas answered that it is on the neighbor's property. Commissioner Kenney stated that the intent is to leave the fence there but the neighbor could take the fence down. Mr. Sekas agreed, stating that they are now removing trees at their Regency Ridge development because so many trees were planted. He stated that this would be a similar situation. Commissioner Kenney stated in response to concerns over setting a precedent that would depend whether the neighbors are fine with it. Any concerns would be for light from headlights. He said noise will bounce up and over a masonry wall.

Commissioner Couchman agreed, stating that trees will absorb sound as opposed to it reflecting off the wall. She would prefer to see a double row of trees planted along unit 14, similar to what has been shown next to unit 13. She asked if it is correct that the neighboring property owner does not want more trees. Mr. Sekas agreed. Commissioner Couchman stated that Leland Cypress trees are fast growers and grow tall. If planted close together they will operate as an effective screen. She noted that Green Giant trees are also fast growers. Hollies grow at a slower rate. In terms of efficacy, she stated that two rows are better. She would recommend providing the same planting at unit 14 that has been shown at unit 13. Mr. Sekas stated that they would be willing to do so; however, the neighbor has planted a large number of tree and does not want any new trees that would limit his own planting's growth.

There being no further questions for the applicant, Chairman Gelb invited public comment.

Mirhakkak Nader residing at 12611 Lee Highway, Fairfax VA stepped forward to speak. Mr. Nader stated that he is representing his mother who lives on Hickory Circle SW and directly behind the project location. He presented copies of his planting schedule for the record, which staff provided on the overhead projector. He stated concern that additional trees will block the sun from his mother's yard prohibiting growth of the fruit trees and bushes recently planted. Originally, the applicant's plan called for a wall constructed 10 feet away with grass in the space between. He has been in contact with the applicant, stating that they installed his fence, which is sinking. He stated that he is against the proposed tree plantings.

Commissioner Couchman asked for the diameter of plantings shown and how far apart the trees will be planted per Mr. Nader's planting schedule. Mr. Nader answered 10 feet, stating that he has planted pomegranate, persimmon, and nectarine fruit trees. They have been planted to take advantage of the sunlight. Commissioner Couchman stated that she is trying to assess the likelihood of survival for all the trees planted. Mr. Nader explained that most of what he planted last year did not survive. He has replanted larger trees in hopes of establishing growth. Commissioner Couchman explained that the subject property will have no adverse impact on Mr. Nader's trees. Chairman Gelb noted that Commissioner Couchman is a landscape architect. Commissioner Couchman suggested Mr. Nader take advantage of the offer to plant trees, stating that evergreens will yield a greater advantage in terms of screening, privacy, and noise abatement. With respect to survivability of Mr. Nader's trees, she noted that there is a lot of intensity in his own plan. Additional discussion followed. Mr. Nader stated that he would be supportive of the applicant's original plan.

Addressing staff, Commissioner Miller asked if the builder has a requirement, per the approved plan, to plant trees. Mr. D'Orazio answered that the applicant is required to plant 10 percent. Commissioner Miller noted that was a town code requirement to plant trees, which is out of their control. Mr. Nader understood the requirement, stating that there will already be a lot of shade cast from the tall townhomes. Additional discussion followed.

There being no further questions, Mr. Nader was seated.

Chairman Gelb asked the Commission for further comment.

Commissioner Meren asked if they have the option to move the trees around the site. Mr. Sekas answered that they are proposing in to move them 8 feet off the property

line allowing room to grow and take shape. If a tree comes down, in perpetuity, they will have to be replaced. Commissioner Meren stated that the plan originally called for more trees. Mr. Sekas agreed, stating that they are adding more, larger trees to the overall site. Commissioner Meren asked if the HOA can choose to plant more trees on site. Mr. Sekas answered yes.

Commissioner Miller stated that in 30 years fences could be removed, which is why the Town Code provides a requirement for masonry walls. He asked why they would want to deviate from that. He agreed that the current plan creates a no man's land and asked if they considered moving the wall to the property line and planting trees behind it. He asked if there is a way to preserve the ability for future residents to build the wall.

Commissioner Basnight stated that they would be setting a precedent, noting that all other townhouse developments have a wall constructed between zones.

Commissioner Couchman respectfully disagreed, stating that the intent of the wall requirement is for instances when residential development is situated against commercial development. This scenario is a bit different to her. Although fences can be removed by property owners they have a choice and can deal with those consequence. The current plan serves the purpose of a masonry wall. Adding a masonry wall would accentuate the difference from an aesthetic standpoint. If she were a neighbor of the development, she would not want a wall. She therefore is in favor of the proposal with a recommendation for a second row of trees next to unit 14.

Commissioner Meren asked if they should be considering whether to move the wall. Chairman Gelb asked for staff response. Mr. D'Orazio explained that the plan has been approved. Anything deviating from that approval requires going back for site plan review and approval. Commissioner Meren stated that the plan is benefited with the plantings. He prefers land that is pervious as opposed to impervious.

Commissioner Kenney stated that in this instance it is 17 townhouses with a 6-foot tall wall that says go away. He asked who they are trying to keep out, the single-family homeowners or townhouse residents and why. He does not favor a masonry wall. The code is antiquated in that sense. He would prefer to see a smaller version of the wall with the plan heavier on the trees.

Commissioner Cole stated that the property line is where the wall should have originally been located with trees screening the wall. That would be the most advantageous design for the neighboring single-family residential properties. She noted that there is a purpose in having a masonry wall separating multi-family from single family, which is to protect single-family use from the intensity of neighboring development and use. It further helps to protect from cars and trucks traveling in and out of the site associated with a townhouse development situated next to residential back yards. The Town Code serves that purpose. The effect of the wall can be softened with landscaping offering further protection that residential neighbors do not have to provide to protect their own property from more intensive development. The entity that is bringing a greater intensity in use must go to the expense in protecting existing single-family residential properties. She stated further concerns in burdening the HOA with coming up with the necessary funds to replace the trees. For long term concerns for privacy and issues associated with single-family residential the approved plan is superior to eliminating the masonry wall.

Commissioner Baum stated going forward she saw no compelling reason to grant a waiver. She resides near a project that is currently under construction at the corner of Tapawingo and Glyndon Street SW. The developer of that site is being a good neighbor constructing the required masonry walls. She stated that it is also a safety concern since the area can be dark at night.

Commissioner Couchman stated that she would prefer not to use the term protection in reference to walls in proximity to intense development. She stated that intense development is not a bad thing, noting that the property is located across the street from a school, down the street from the fire department, and across the street from the police department. Noise and lights are operating on a completely different scale than the property Commissioner Baum referenced. Creating a pocket between the masonry wall and fence could create more of a disruption like people hiding or rats and so forth. The absence of the wall would be better suited to that area. Adjacent neighbors may find greater frustration with the wall and issues resulting. They are also supposed to look at each case individually. The application is unique and not setting a future precedent.

Ian Markley residing at 113 Locust Street SW stepped forward to speak. Mr. Markley stated that he is one of the adjoining neighbors and that he would prefer two rows of trees. There being no further comments, Mr. Markley was seated.

Chairman Gelb noted that a portion of wall remains per the plan. He also noted that town code expressly allows for a waiver of the wall requirement, so that either outcome is in compliance with code, so the question for the PC is which it considers a better solution.

There being no further discussion a motion was in order.

Commissioner Meren moved that recommendation be made in favor to Town Council on a request for wall waiver for an approved townhouse condominium development on property located at 135 Center Street South, in the RM-2, Multi-Family, Low Density zone.

There being no further discussion Chairman Gelb called the questions.

Motion: Meren

Second: Couchman

Carried: 5-4

Ayes: McCullough, Couchman, Kenney, Meren, Gelb

Nays: Miller, Basnight, Baum, Cole

B.

Kingsley Myers Subdivision at properties located at 713 Kingsley Rd SW and 911 Myers Circle SW.

ITEM NO. 2

Recommendation to the Town Council on a final plat for the Kingsley Subdivision to subdivide two lots (Lot 25 and 28), Vienna Woods, into three lots (Lot 25-A1, 28-A & 28-B), on property located at 911 Myers Circle SW and 713 Kingsley Road SW and in the RS-10, Single-Family Detached Residential zone. Application filed by Sharyn Covington and, Thomas and Laura Moroz, owners.

Deputy Director, Hyojung Garland provided staff's report, stating that the proposed

request is for a 3-lot, L shaped subdivision. The current houses were built in 1958 as part of the overall subdivision. Photos of surrounding areas were provided. Ms. Garland stated that the proposed subdivision is bound by Nutley Street, Kingsley Road, and Myers Circle SW. The application meets all subdivision requirements per Chapter 17 of the Town Code providing a 20 percent canopy coverage with sidewalk upgrades to 5-foot wide sidewalks along both streets. The Myers Circle side of the project will not be upgraded due to the oversized road width. Stormwater management has been provided with ten (10) planter boxes and a pervious paver driveway on lot 25A-1. Ms. Garland noted that pervious pavers do not provide any credits toward lot coverage. The applicant originally approached staff during their initial planning phases, two years prior. At that time staff advised the applicant that 911 Myers Circle SW did not have the necessary lot width for subdivision. The applicant then approached the owner of 909 Myers Circle SW and was able to make a land acquisition for the necessary square footage thus meeting their mid-lot width requirement.

Commissioner Miller asked if 909 Myers Circle SW will remain in conformity as a result of the land acquisition. Ms. Garland answered yes, stating that they meet all aspects of the code requirement. She noted that the lot line adjustment is an administrative process and presented the subdivision layout for the proposed 3-lot subdivision. Should the plan be approved the third lot will be addressed 910 Nutley Street SW.

Chairman Gelb asked to see the proposed house location plan for the subdivision. Ms. Garland presented the plan and noted that there will be no structures built until the owner of 909 Myers Circle SW vacates the property or within five years, whichever comes first. Staff review has also determined that lot 28-A would be better served having Kingsley Road SW as the front of the property. Given the configuration of the area it is the more desirable front. Commissioner McCullough strongly agreed.

Commissioner Meren asked if they considered one driveway for both lots. Ms. Garland answered that page 826 of the Town's Comprehensive Plan, Street Classifications, indicates these streets being classified as minor arterial streets. It further states that driveways within commercial zones are limited and driveway access in residential zones are not prohibited. She stated that there are driveways that exist along Nutley Street SW.

Commissioner McCullough stated that there are no driveways located along Nutley Street SW until after Tapawingo Road SW. That entire block of Nutley Street SW has backyards that face that portion of Nutley Street. This would be the one home along Nutley Street that would be flipped. She asked in reference to the property at 909 Myers Circle SW whether there is enough land that would remain allowing for another subdivision. Ms. Garland answered no because there would not be enough square footage width.

Commissioner Baum asked if proposed lot 28-B could have a k-turn or circular drive. Ms. Garland answered yes, stating that staff shared the same concerns. The proposed plan includes a T-turn driveway so that the owner will not have to back out on to Nutley Street SW.

Ms. Garland stated that although the plan calls for the removal of all trees there are many healthy trees present on site. The Town Arborist has determined that it is possible to save tree number 5, a 32-inch White Oak. It is in good condition with a

life expectancy of more than ten years. In support of Community Enhancement efforts to save existing trees, staff encourages saving the existing trees on site.

Chairman Gelb stated that the application is for final review of a 3-lot subdivision. Ms. Garland agreed, stating that it is a recommendation for approval pertinent to the 3-lot subdivision. The necessary boundary line adjustment would be handled administratively as a private land purchase. Funds have held in escrow awaiting final plat approval by Town Council. If the subdivision is not approved then no boundary line adjustment will occur.

Commissioner McCullough asked if all three lots must wait until the vacation within five years or sale of 909 Myers Circle SW. Ms. Garland answered that the legal language only relates to parcel 28-B. Commissioner McCullough stated per an approval the builder could tear down the homes at 911 Myers Circle and 713 Kingsley Road SW and come back five years later to build the structure at 910 Nutley Street SW. Ms. Garland answered yes, per the applicant's private agreement with the neighbor. It would not be per a town requirement.

Commissioner Meren asked for further clarification from staff. Ms. Garland explained, as there is no code reason not to approve the application staff supports recommendation for approval. Additional discussion followed.

Commissioner Meren stated that he used to live in the vicinity of the proposed subdivision and agreed that it is a very busy area of town. A driveway coming off Nutley Street SW is scary. Although it is allowed per town code, he asked if it should be done. Referencing the Mashie Drive subdivision, Ms. Garland stated that the original design met all town code requirements but received a recommendation to be re-designed with a cul-de-sac. The applicant decided to make the suggested changes but it was not a requirement.

Commissioner McCullough reiterated her safety concerns, stating although there are some driveways along Nutley Street SW they are all located up the hill past Tapawingo Road SW. Those properties are near traffic intersections where traffic stops. The intersection at Kingsley and Nutley Road SW is dangerous having a lot of fast traffic that flies up Marshall Road SW. There are currently only two houses located between Kingsley and Marshal Road SW. There is nothing to stop traffic at that intersection. Putting a driveway there would definitely need a turnaround feature. They had similar discussions when considering whether to allow driveways on to Follin Lane SW. Commissioner Miller stated that this particular intersection has more traffic than the Mashie Drive Subdivision intersection at Follin and Maple Avenue East.

Commissioner Baum worried that the new owner would end up before the TSC (Transportation Safety Commission) making statements like; "I can't get out of my driveway." She stated that it would be a disservice to the public to allow a driveway onto Nutley. She said the PC should consider whether it is doing diligence necessary to ensure the safety of all residents.

Chairman Gelb asked what options they have if the Commission feels the proposal raises safety issues. Ms. Petkac read aloud for the record town code section 17-2, Interpretations and purpose of chapter, "In the interpretation and application, the provisions of this chapter shall be held to meet the minimum requirements adopted for the protection of the public health, safety, and welfare. Such provisions are intended to provide for a 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..." Chairman Gelb stated that there appears to be sufficient references to safety as a consideration that PC has the option to recommend against the application if that concern is shared by a majority of the commission. Ms. Petkac agreed, stating per provisions of the Town Code.

Commission Meren asked if they were to vote against recommendation if they could still move forward with the subdivision. Ms. Garland responded that the lot line adjustment could occur administratively regardless of the subdivision. Commissioner Meren asked if that would be true if the application was rejected. Ms. Garland stated that the boundary adjustment would be possible.

Commissioner Basnight stated that the design of the subdivision did not make sense to him. The corner at Nutley is dangerous.

Commissioner Cole stated in addition to the items read aloud by Ms. Petkac, there are town services to consider. The town's trash truck would be making a stop along that long block in busy traffic. She hoped that the safety of town employees are taken into consideration. Staff had also mentioned that the lot shape factor of lot 28-B, after the boundary adjustment, is at 24.9 with anything under 25 as being acceptable. Ms. Garland answered agreed. Commissioner Cole asked what that will do to lot 28-A as it will now have a non-square rear lot line. It may meet lot shape factor but it creates a situation of bulging or concave lot lines. Although it is technically within the rules it ends up looking contorted. She was concerned that cutting two properties into three with the lot line adjustment precludes a more comprehensive subdivision of that area. She asked if there would be opportunities to create a more logical subdivision if they had other parcels to work with. Although they cannot force the developer to do so she asked if it were more logical for the long term development of the town to take a different approach to this area. She is willing to stand corrected by town's staff if that is an impermissible consideration.

Commissioner Cole asked if stormwater management for the new lot will not tie into storm drains and be located all onsite. Mr. Sergeant answered yes. Commissioner Cole asked, given the flooding tendencies of that section of town, whether the Department of Public Works is comfortable with that design. Mr. Sergeant answered that they are, stating that the applicant meets pollution mitigation requirements along with requirements for quantity as well. Commissioner Cole asked what that means for the other properties and whether they are looking at the entire subdivision. Mr. Sergeant answered that they are looking at them as a whole and find that they are reducing the amount of water coming off from pre-existing conditions.

Commissioner Couchman noted that from safety perspective she cannot respond to town services. It does appear that on the proposed plan for 28-B and per staff comment that they are providing a turnaround driveway. The plan provides access to the property. The divider along Nutley Street SW will prohibit them from making a left turn in or out of the property. She understands their obligation to maintain a safe community but she is not in favor of denying them the opportunity to subdivide their property that is compliant per the Town Code. She only objects to the proposed planters.

There being no further comment Chairman Gelb invited the applicant forward to present.

Farhang Mojgani, PE of Civiland, LLC residing at 20924 Marine Court, Sterling VA stepped forward to present. Mr. Mojgani thanked staff for their presentation, stating that he is the engineer for the project and will be representing the owners. He stated that they are submitting for a 3-lot subdivision from 2 lots. Due to the lack of square footage they have to provide a lot line adjustment in order to create the subdivision. Once that occurs they can subdivide into 3-lots meeting all town code requirements. The area ranges from 10,100 – 11,700 square feet with all 3-lots on public water. For stormwater management they proposed to install ten (10) planters for all three lots with a paver driveway on the lot situated on Myers Circle SW. Each planter will sit 1-5 feet above grade to avoid erosion potential from water flow into the back yard. He can understand the concerns expressed with creating a driveway access from Nutley, which is why they have provided a turnaround area for the driveway. They feel that they have provided safe conditions for the future homeowner to travel to and from the property. Mr. Mojgani offered to answer any questions.

Commissioner McCullough stated that it appears as though the new structure is being pushed closer to the property line of the house at the corner of Myers and Kingsley Road SW. Mr. Mojgani answered that it is but it will remain within the setback restriction. Commissioner McCullough asked if they intend to move the driveway. Mr. Mojgani answered yes, a few feet.

Commissioner Kenney stated that sheet 3 of the proposed plan details stormwater management with raised planter beds. The page indicates a detail on sheet 4 but he unable to locate it. He asked for clarification as to how it will physically work and get to daylight. Mr. Mojgani explained that it is for the sump pump in the basement. Commissioner Kenney asked if it will discharge to daylight in the middle of the backyard. Mr. Mojgani answered yes.

Commissioner Kenney asked if staff is comfortable with the design. Mr. Sergeant answered yes as it is a typical design. There being no further questions Mr. Mojgani was seated.

There being no public comment Chairman Gelb read an email from a neighbor residing at 902 Myers Circle SW who expressed concern regarding the proposed subdivision. The neighbor worried that the subdivision would result in higher density rates for the intersection, which will impact traffic and traffic flow. In addition, it is in a storm drainage area, altering the lots may result in flooding of adjacent land. The letter asked that it be evaluated and expressed further concern that in granting the proposal they are setting a precedent of continued changes in the area reducing the value of property leading to a change in lot sizes in the town.

Commissioner Meren asked if a new 5-foot wide sidewalk would be installed at 713 Kingsley Road SW. Ms. Garland answered yes, stating that all curb and sidewalk will be replaced except along Myers Circle SW. Commissioner Meren asked if ADA ramps are included. Mr. Sergeant answered no, stating that the ADA ramp is compliant.

Commissioner McCullough asked if the sidewalk will be 5-feet wide running the total length from Kingsley to Nutley Street and to Myers Circle SW. Mr. Sergeant answered only along the frontage of the subject properties. Commissioner McCullough asked if all other sidewalk will remain as is. Mr. Sergeant answered yes.

Commissioner McCullough stated that the PC recognizes a property owner's right to

maximize the value of their property and that a subdivision is potentially possible due to a lot-line adjustment from the neighboring property. She stated per the current lot design that right does not currently exist, which is similar to the subdivision that was proposed on West Street NW. Chairman Gelb agreed that denying the application would not curtail rights that existed when the property was acquired. Commissioner Couchman disagreed, stating that the application is not similar to West Street NW. In the instance of West Street the applicant did not have an agreement from the neighboring property owner. In this instance, the applicant has that agreement. They could make the motion conditional per staff's recommendation. She stated that it was also discovered during review that the West Street application was not compliant whereas this application is.

There being no further discussion a motion was in order.

Commissioner Cole moved that a recommendation for approval be made to the Town Council on a final plat for the Kingsley Subdivision to subdivide two lots (Lot 25 and 28), Vienna Woods subdivision, into three lots (Lot 25-A1, 28-A & 28-B), on property located at 911 Myers Circle SW and 713 Kingsley Road SW and in the RS-10, Single-Family Detached Residential zone as presented by the applicant and conditioned on the proposed lot line adjustment.

Commissioner Miller stated that he will be voting against the motion. He recognizes the rights of the property owners but believed sufficient discussion had centered on the safety and soundness of the application. He stated that staff commented that PC could rely on that as a matter of determining when a subdivision can happen. For those reasons, he will be voting against the motion.

Commissioner McCullough stated that she will be voting against the motion as well out of safety issues discussed in terms of traffic, pedestrians, and town employees providing services. She stated that what is unique and great about the town are the large lots. The lot at the corner could be developed as a teardown single-family development, which could improve the view and aesthetics at the corner. If people think they can buy up unique properties to be subdivided they will lose that unique feature.

Commissioner Basnight stated that he will be voting against the motion for similar reasons stated regarding safety.

Commissioner Baum agreed that she will be voting against the motion out of safety concerns.

Chairman Gelb stated that he will also vote against the motion out of safety concerns. He is cognizant of the point Commissioner Couchman makes but the PC would not be taking away a right that existed in the properties' current boundaries. The property as is creates a different situation.

Motion: Cole

Second: Couchman

Fails: 2-7

Ayes: Couchman and Kenney

Nays: Miller, McCullough, Basnight, Gelb, Meren, Baum, and Cole

Commissioner McCullough made a motion that a recommendation for denial be made to Town Council on the proposed final plat for the Kingsley Subdivision to subdivide two lots (Lot 25 and 28), Vienna Woods subdivision, into three lots (Lot 25-A1, 28-A & 28-B), on

property located at 911 Myers Circle SW and 713 Kingsley Road SW and in the RS-10, Single-Family Detached Residential zone.

Motion: McCullough

Second: Basnight

Carried: 7-2

Nays: Couchman and Kenney

The Commission took a brief recess reconvening at 10 pm.

4. Public Hearings

A. Vienna Market MAC rezoning project

Request for recommendation to Town Council on a proposed rezoning for Vienna Market, a mixed-use townhouse unit (condo) with ground and first floor retail, a 1.97 acre parcel on properties located at 245 Maple Avenue West and 101, 107, 115 Pleasant Street NW, all in the C-1A Special Commercial zoning district (Requested zoning is MAC Maple Avenue Commercial). Application filed by Vienna Vision, LLC.

Staff Planner, Michael D'Orazio provided staff presentation, stating that the current site consists of four (4) parcels measuring at 1.97 acres and will measure at 1.91 acres after dedication. There are currently five (5) freestanding buildings and one detached accessory structure on site, which are surrounded by a mix of commercial office properties and a single-family detached dwelling. The site is currently zoned C-1A, special commercial with surrounding properties zoned C-1A, commercial, RS-16, residential single-family detached, and T-transitional zones. The residential single-family detached property is located within Windover Heights Historic District.

Mr. D'Orazio explained that the application is eligible for rezoning under the Town's MAC zoning ordinance. With respect to future land use, the Town's Comprehensive Plan lists the site as mixed-use. The proposed development calls for 8,200 square feet of retail with 44 townhome condominium units, a 2,700 square foot corner plaza, and underground parking for retail and service parking for townhouse visitors.

The application meets all zoning requirements in terms of front and side-yard setback, building height, open space, and impervious area. The applicant has requested an increase in the maximum allowable pervious area with incentive features, which is permitted per the MAC application process. Staff noted concern with the proposed corner plaza area. MAC requires that the ground floor façade facing Maple Avenue be everything but multi-family. Currently, there is a townhouse side facing Maple Avenue at the corner of Pleasant and Maple Avenue West. It was staff's feeling that if the developer could integrate the corner plaza into the retail site meeting the intent of the Town Code. Commissioner Gelb asked if the developer did not do so, then the project would not be meet the strict conformance of the code. Mr. D'Orazio answered yes.

Commissioner Kenney asked where the entrance of the townhouse is located. Mr. D'Orazio answered Pleasant Street NW. Commissioner Kenney asked what concerns staff. Mr. D'Orazio responded that the MAC requires that the ground floor façade along Maple Avenue not be Multi-family use. Commissioner Kenney asked how it would differ from their previous proposal. Mr. D'Orazio answered that the previous

application included a glass structure at the corner.

Commissioner McCullough asked for staff's suggestion. Mr. D'Orazio responded that staff would prefer to see more integrated retail with outdoor seating for retail purposes.

Commissioner Cole asked if it is a waivable per the MAC review. Mr. D'Orazio answered that the applicant may be able to request a modification from requirement but he would have to verify that information.

Chairman Gelb invited the applicant forward to present.

Doug D'Alexander residing at 8011 Amsterdam Court Gainesville, VA stepped forward to present. Mr. D'Alexander stated that he is the applicant, owner and contract owner of one of the properties. In response to staff concern, he stated that the current application is a reproduction of the original application and includes changes in response to changes made to the Town Code. With respect to the corner plaza discussion, they decided to integrate retail by installing glass down the side and facing the plaza. It will be setback 25 feet. Additionally, he intends to provide more surface area for outdoor seating for a coffee shop or bakery. Something conducive to retail use.

Mr. D'Alexander stated that the Pleasant Street NW elevation is the same as before but with forty-four (44) residential units, down from the originally proposed forty-nine (49) units. Retail space has been reduced from 26,000 to 8,200 gross area. Recent Town Code changes made to setback, impervious surface requirements, height restriction, and parking requirements affected the project requiring a reduction in the amount of residential units. The original application included 105 retail parking spaces, 26,000 square feet of retail and an egress onto Church Street NW that pushed 105 opportunities for exiting on to Church Street NW traveling to Lawyers Road and down that intersection. That had been a grave concern to surrounding residents and members of the town.

The current application has 8,200 square feet of retail and only allows egress on Maple Avenue with 33 spaces below grade as opposed to the 105 originally proposed parking spaces. The community had expressed traffic flow concerns during their original review. The new plan only allows retail ingress/egress onto Maple Avenue.

Mr. D'Alexander stated in an attempt to address previous comments that the last design was not walkable they have turned the townhouses creating two entrances on a "U" shaped private road. A sidewalk will extend down Church Street NW creating a more pedestrian friendly subdivision and design. In response to previous comments that there were no trees or grass planting areas they have created a greater setback to allow for larger planting areas. They have also addressed staff's sight line concerns when turning from Pleasant Street NW onto Maple Avenue West. It required that they move proposed street trees to the front park allowing them to retain their canopy coverage. He explained that due to the loss of retail and living units, for economic reasons they have replaced pavers with asphalt and concrete. He noted that work session discussions included whether to install a brick sidewalk down Pleasant Street NW in which they decided to install concrete sidewalks with brick pavers along the surface. Additionally, they had discussed ensuring that Maple Avenue remain a main corridor and to differentiate secondary streets. Mr. D'Alexander asked to answer any questions.

Commissioner Kenney asked for clarification on parking space as referenced on sheet 5 of the plan. Mr. D'Alexander explained that they are providing nine guest parking spaces for residential and two commercial parking spaces located on the lot above. The two commercial parking spaces will be marked with signage.

There being no further questions Chairman Gelb invited public testimony from members of the audience.

Nancy Logan, residing at 410 Millwood Ct SW, stepped forward to speak. Ms. Logan is not a neighbor to the project but wanted to speak on the aggressive development occurring in town. She feels there is a lack of communication and that most residents are not aware of what is going on. She suggested town staff include information on future development in the town's Vienna Voice newsletter. Having moved from California she is familiar with living in an aggressive growth area. She has witnessed how it changes a community and their quality of life for the worse. She walks to most places but does not anticipate walkability occurring in a lot of communities, stating that cars will still be used. She stated that large dense areas are creating edge cities and asked if that is what the town wants. She is concerned that her neighborhood will become an urban area, which is what she left to come to the town. She had further concerns for traffic and parking issues that will also bring noise, trash, and runoff further impacting the environment. Members of the town should keep in mind that the neighbors living in proximity to these developments may not be happy about it although some of the wealthier members of town may be happy with development. She asked that they not disenfranchise the impacted residents. She has heard that some of her neighbors are already planning to sell their homes out of concern over neighboring commercial development. She stated that she is present to speak on behalf of those residents. There being no further comment Ms. Logan was seated.

Chuck Anderson, residing at 125 Pleasant Street NW stepped forward to speak. Mr. Anderson providing a PowerPoint presentation, stated that he is not present to speak on the project. He will be focusing on critical, legal issues that he feels needs addressing. Mr. Anderson stated that the MAC regulations co-exist with other zoning and land development laws, both local and state. They do not override all other regulations and laws, as they must co-exist. He stated that no rezoning under MAC is by-right. The Town retains the right to approve or reject each application. He asked if the current proposed development qualifies as a subdivision per Chapter 17 of the Vienna Town Code or the Virginia State Code. Any MAC development that does qualify as a subdivision must be in conformity with Chapter 17, Subdivisions Code. Reading aloud for the record Mr. Anderson stated, "...no person shall subdivide any tract of land situated within the town except in conformity with provisions of this chapter and provisions of state law relating to land, subdivision, and development..." He stated that there is no out for MAC. Per Vienna Town Code definition of subdivision three out of the five conditions apply.

"...C, the improvement for one or more parcels of land for residential, commercial, or industrial structure or groups of structures involving the division or allocation of land for the opening, widening, or extension of any street except private streets serving industrial structures..." He stated that the street in this development meets this condition.

"...D, the division or allocation of land as open spaces for common use by owners, occupants, or lease holders..." He stated that there is common space that being allocated for the park, so it meets that condition.

"...E, the division or allocation of land for easements for the extension and maintenance of public sewer, water drains, storm drainage, and other public facilities..." Mr. Anderson Stated that under the clear reading of the town code this does qualify as a subdivision.

He noted that Virginia law reads, "...subdivision and site plan ordinances in any county, city, or town in the commonwealth shall apply to any condominium in the same manner that such ordinance would apply to the physically identical project or development under a different form of ownership..." He stated that this is a subdivision whether they are town houses or condominiums. They can get around subdivision requirement by calling them condominiums. If it is a subdivision then he asked for the minimum requirements for roads. He has not been able to study the entire town code but there are extensive rules and regulations for subdivisions per Virginia State Code. He stated that secondary and local streets must be a minimum of 50 feet in width. The application calls for 23-foot wide streets. He stated that if Michael Covell has to install a 36-foot road to serve two houses located less than 100 yards away, he asked how this project can have a 23-foot wide road that serves 44 houses. This is the largest housing development that has been presented in the town for many years. It makes sense that requirements for roads and parking should apply.

Mr. Anderson asked under what conditions spaces for rooftop dining are allowed for Vienna in general and the MAC in particular. He asked if it were dependent upon the location for rooftop dining areas listed under MAC or whether it falls under mechanicals. There being no questions Mr. Anderson was seated.

Enrico Belol, residing at 3205 Arrowhead Drive, Fairfax VA stepped forward to speak. Mr. Belol stated that he is representing his father who was a former owner of the Marco Polo property and current owner of 243 Church Street NW, the Windover Heights building located directly behind the subject site. Mr. Belol stated concerns with upcoming construction and how that will affect his building. That section of Church Street NW is on a one-way street. Locals often drive against the one-way as a short cut. He asked if the road will remain a one-way street during construction, stating concern as to how it will affect his tenant's customers' or patient's ability to get to the building. He has additional concerns that construction will affect parking along that street. He would like to know how those concerns will be addressed. There being no further comment Mr. Belol was seated.

Patty Hanley, residing at 333 West St NW stepped forward to speak. Ms. Hanley stated that she is excited about the potential retail and supports the application. She will not comment on the residential area as she has no plans to live in a townhouse development again. There being no further comment Ms. Hanley was seated.

Rick Lucien, employed at 255 Maple Avenue West at AJ Sports Stop stepped forward to speak. Mr. Lucien stated that it was his understanding that the project extended to the Marco Polo building only. He now understands that the project includes his building and asked what will happen to the businesses if the project moves forward. Chairman Gelb answered that the buildings will be removed as a result of the project. Mr. Lucien stated that everyone he has spoken with is against the project. They have customers who have been coming to their business for 35 years as they are one of the oldest locations in the country. This will affect his and the remaining businesses in their building. He stated that it is a big shock and a big change for them as they will not be able to afford rent any place else. There being no further comment Mr. Lucien was seated.

There being no further public testimony Chairman Gelb invited additional

discussion from the commission.

Commissioner Cole noted for the record that the applicant was a principal owner of BFR Construction who built her house 16 years ago. They have had no further business dealings since that time.

Commissioner Meren stated in response to Mr. Lucien's testimony he asked how long the project has been under review. Mr. D'Orazio answered that the original application was reviewed in a public hearing April 2016. The Town Council held their public hearing in June 2016. With respect to notification, the item was published in the Washington Times two weeks prior to the meeting, the site was posted with signage, and certified letters were sent to all adjacent, abutting, adjoining properties and their agents. He stated that staff sent a total of 115 certified letters out to surrounding property owners and their agents. Commissioner Meren stated that the project has been underway for approximately 3 years. Mr. D'Orazio answered yes.

Commissioner Baum asked for staff response to the subdivision questions brought forward by Mr. Anderson. Chairman Gelb asked Ms. Petkac whether staff has had an opportunity to review the questions with the Town Attorney for a legal opinion. Ms. Petkac answered that she discussed it with the Town Attorney and that the application meets requirements for a rezoning and is not a subdivision.

Mr. D'Alexander presented an alternate design to address staff concerns, stating that the glass feature will open up the design. The image is from the pedestrian level at the corner of Pleasant and Maple Avenue NW. Commissioner McCullough stated that they had work session discussions on ADA compliant accessibility issues related to the first structure. She asked if those concepts have been brought into the current design proposal. Mr. D'Alexander answered that the new design will sit closer to Maple Avenue. There is a MAC requirement that 25 percent of the structure must sit 20 feet from Maple Avenue. The current plan ranges from 20 – 23 feet with the grade change. This is different as it allows for smaller retail bays sitting closer to the street. There is also 11-13 feet of space for outdoor seating and plaza area. Nowhere along the streetscape will they be countertop or waist high to the sidewalk that will extend along Maple Avenue. He stated that is a grade that they cannot change. They also had to meet ADA access requirements.

Addressing staff Chairman Gelb asked for a detailed response from the Town Attorney. Commissioner Miller asked if they could request the Town Attorney to attend their next meeting to respond formally to questions. It had been his understanding that MAC was an overlay district not rezoning.

Commissioner Cole asked if the streets within the project will be private and therefore do not have to meet VDOT regulation. Mr. D'Alexander answered yes. Commissioner Cole stated that the corner that is next door to Bank of America is very fortress like and asked if it could be softened. Mr. D'Alexander explained that the plan originally called for a 20 ft. wall sitting 30 feet off the corner. They are currently proposing the building to begin 40 ft. beyond. Additional discussion followed.

Commissioner Cole asked if they could extend something around the corner. Mr. D'Alexander responded that staff and the BAR (Board of Architectural Review) have suggested using that wall for public art. The wall includes an elevator shaft so it is necessary. They intend to present a public art plan for that wall. The front corner is 20 feet plus 3 feet for railing, which sits well below the height requirement.

Commissioner Basnight responded to Mr. Anderson's public testimony, stating that a comparison was made to standard requirements of the two-lot subdivision across the street to the tonight's project. The two-lot single-family subdivision is located on a public road whereas the subject site is for townhomes on a private road.

Commissioner Baum stated that the application calls for a 5 percent increase in lot coverage and asked for an explanation. Additional discussion followed and was determined that the information was located on sheet 9 of the submitted plan. Commissioner McCullough noted that during previous discussions the applicant offered to enhance walkability for the onsite community by extending the sidewalk along the Bank of America property situated next door. Mr. D'Alexander agreed. Commissioner Kenney asked if they could come up with method to soften the one side of the building. He was more concerned with the 25-foot masonry wall that is located behind. He asked if they considered including recesses or decorative metal at the openings. Mr. D'Alexander answered that is the area being considered for a public art mural. Commissioner Kenney stated that he would like to see additional information and asked that the applicant provide it to their next hearing: a cross section at the retail in order to clarify and a cross section of the other direction that includes the drive when transitioning into the parking area. He would like to ensure that the design was not too steep and bottom out a car. Additionally he would like to see a detail of the dumpster area. He had concerns that it will get banged up during use. He noted that there should be a better signs than the parking sign shown. He asked where they intend to install signage for retail. Mr. D'Alexander answered that it will be mounted along the canopy's front edge.

Commissioner Kenney stated that he liked the intent and design of the glass for retail. He asked if they considered installing a barrier that isn't facing Maple Avenue such as a tier. Part of the tier serves residential and the lower tier could serve an outdoor seating area or gathering space. He stated in reference to the proposed parking design he had concerns with the parking layout, noting that it will be impossible to get out of the four parking spaces. There are two on each end of the drive lane. He asked the applicant provide in their follow-up a snow removal plan for the site and an interior model, and a review of their stormwater management plan. He stated that there is a large stormwater management pipe that crosses the property. Mr. D'Alexander explained that they will be removed. They intend to bypass the system and connect at the front of the water retention space. Additional discussion followed.

Commissioner Cole asked that a construction plan be sent to the gentleman who expressed concerns about parking during construction. Mr. D'Alexander agreed, stating that there will be 15 additional perimeter spaces that will be added as part of the project. He stated that any interruptions to traffic flow will depend upon VDOT regulations but he will try to keep as much accessibility as possible. Commissioner Cole thanked Mr. D'Alexander and asked that he let town staff know of those requirements and communications as well. Mr. D'Alexander agreed.

Commissioner Kenney asked what retail they anticipate. Mr. D'Alexander answered that currently he had none, stating that he would like a small retail establishment Caffè Amouri or a flower shop.

Addressing staff, Commissioner Meren asked if they anticipate redistricting of school zones due to development. He asked if they have been in communication with Fairfax County Public schools regarding redistricting. Ms. Garland explained that Fairfax County Public Schools provides their own future planning. They project

numbers based upon student attendance numbers in their own comprehensive plan. Additional discussion followed.

Commissioner Miller asked for an explanation of the applicant's proposed proffers. Mr. D'Orazio answered that they are listed on page 2 of the provided plan.

Commissioner McCullough asked whether there are any plans or intentions of making Church Street NW in to two-way traffic. Mr. D'Alexander answered no, stating that he has no intention of making any traffic changes. He noted that any prior discussion was staff's suggestion for a comprehensive study. Nothing occurred except the conversation. Chairman Gelb noted that it may be a policy decision for Town Council. Commissioner McCullough agreed, stating that she supports leaving Church Street traffic pattern as is. She understood that there could be short periods of time when portions of the road would need to be shut down. Mr. D'Alexander agreed, stating that he will work with surrounding businesses and residents.

Commissioner Meren asked if the town house renderings are correct. Mr. D'Alexander answered that he has provided artist renderings depicting early 1900 Brownstone style design. He stated that they are currently creating working drawings for the plan. Commissioner Meren asked that they consider a living wall as well as technologies like a renewable energies.

Commissioner McCullough asked if the sidewalk along Maple Avenue will be installed in brick. Mr. D'Alexander answered yes, stating that he will match the brick pavers per MAC requirements and will continue the same brick pattern around the corner and 11 feet into the corridor.

There being no further discussion a motion was in order.

Commissioner Cole made a motion to continue the public hearing to the March 28, 2018 Planning Commission meeting. The record will remain open to allow interested parties the opportunity to provide written comments to the Commission.

Motion to Continue: Cole

Second: Basnight

Continued: 9-0

Commissioner Couchman thanked staff and the applicant for their perseverance of the application. She encouraged everyone to visit the Town's website for further information regarding MAC procedures and future projects.

Commissioner Basnight reiterated that the Commission would like the Town Attorney to attend the next meeting to answer questions. Commissioner McCullough stated that a memorandum would be acceptable if he is unable to be present at the next meeting.

5. Director's Comments

Ms. Petkac stated that she had no formal comments. She stated that is excited to work with the Planning Commission and the town.

6. Approval of the Minutes:

Chairman Gelb stated that he has provided corrections to the clerk.

Commissioner Basnight made a motion that the January 24, 2018 meeting minutes be

approved with corrections provided to the clerk.

Motion: Basnight

Second: McCullough

Carried: 7-0-2

Abstain: Miller & Meren

7. Meeting Adjournment

There being no further discussion the meeting adjourned at 11:31 pm.

Respectfully Submitted,

Jennifer M. Murphy

Commission 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.

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.