

## Written Testimony to Planning Commission

Planning Commission Public Hearing on Proposed Amendments to Chapters 17, 18 and 27, related to  
Preserving and Enhancing Vienna's Tree Canopy

Public Record for Public Comments Received as of 3 p.m. October 10, 2023

| Testimony Number | Name of Submitter                             | Address of Submitter                                                             |
|------------------|-----------------------------------------------|----------------------------------------------------------------------------------|
| 1                | Lea Giovanniello & Bob McCahill w/ attachment | Petition Request for Town Council to Take Action to Mitigate Tree Loss in Vienna |
| 2                | Kambiz Faris                                  | 108 Yeonas Circle SE                                                             |
| 3                | Lea Giovanniello w/ attachment                | 317 Broadleaf Drive NE                                                           |
| 4                | Mary Flounlacker                              | 907 Country Club Drive NE                                                        |
| 5                | Roxanne Timberlake                            | 509 Adelman Circle SW                                                            |
| 6                | Diane Rosenthal                               | 1206 Kelley Street SW                                                            |
| 7                | Amy Jones                                     | 127 Wilmar Place NW                                                              |
| 8                | Rob Fisher w/ attachment                      | 131 Church Street NW                                                             |
| 9                | Kevin Kilcullen                               | 612 Hillcrest Drive SW                                                           |
| 10               | Cathy Sonti                                   | 1011 Mountfort Court SW                                                          |
| 11               | Jill Miller                                   | 501 Creek Crossing Road NE                                                       |
| 12               | Brian Land w/ attachments                     | 504 Ridge Road SW                                                                |
| 13               | Christina Caplan w/ attachments               | 1218 Kelley Street SW                                                            |
|                  |                                               |                                                                                  |
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Vienna Town Council  
 Vienna Town Hall  
 127 Center Street S  
 Vienna, VA 22180

pg. 2

Request for Town Council to Take Action to Mitigate Tree Loss in Vienna

Dear Town Council:

We are writing because we are concerned about the loss of trees in the Town of Vienna. There are 100 or more home teardown/rebuild projects in Vienna each year. Many of these projects result in the loss of mature trees. In 2022, Davey Resource Group measured the change in Vienna's tree canopy and determined that, in the 10 years from 2011 to 2021, *Vienna lost 13% of its tree canopy, a decrease in canopy from 44.5 % to 38.7%.* This amounts to a loss of about 163 acres of tree canopy. Some areas of town had a decrease greater than 30%.

We ask Town Council to take action to mitigate the loss of trees, and to take the following actions as soon as possible:

- 1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.*<sup>1</sup>
- 2. Establish a Tree Commission.*<sup>2</sup>
- 3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.*<sup>3</sup>

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<sup>1</sup> The Virginia General Assembly allows localities in the Chesapeake Bay watershed the authority to adopt a tree replacement ordinance. (Section 15.2-961). The replacement ordinance does not require the preservation of trees but does specify the replacement of trees that are cut down. The General Assembly also granted certain localities in Planning District 8 (which includes Vienna) the authority to adopt a tree conservation ordinance. (Section 15.2-961.1). The tree conservation ordinance allows minimum tree canopy requirements to be met through the preservation or replacement of trees. However, when existing trees meet standards of health, condition, and suitability, and when it is feasible to preserve those trees, all efforts shall first be made to meet the tree canopy requirement through the preservation of trees before tree planting.

Fairfax County adopted a tree conservation ordinance in 1990. Vienna, has not, to date, adopted a tree conservation ordinance. Vienna currently has a tree replacement ordinance. Under Vienna's tree replacement ordinance, builders must submit a plan for replacement of trees, but there is no requirement to preserve or make an effort to preserve existing trees.

We ask Town Council to help mitigate Vienna's tree loss by adopting the tree conservation ordinance that was authorized by the Virginia General Assembly and has been in place in Fairfax County. The tree conservation ordinance will also allow higher tree canopy requirements for some residential lots in Vienna (a 25% tree canopy in 20 years requirement, rather than the current 20% in 20 years).

<sup>2</sup> Vienna maintains a Conservation and Sustainability Commission, but Vienna does not have a commission that is solely focused on trees. A tree commission can advise on the planting, design, maintenance, management, and removal of street, park, and other public trees. It can sponsor tree planting events and raise community awareness about the importance of trees. Nearby communities such as Fairfax County, the City of Falls Church, Arlington County, and the Town of Leesburg have tree commissions. We ask Town Council to establish a Tree Commission that will serve and benefit the Town of Vienna.

<sup>3</sup> Every dollar spent on planting and caring for a public tree yields benefits that include cleaner air, lower energy costs, improved water quality and storm water control and increased property values. We ask the Town to increase the budget for tree planting on Town Property and publish the number of trees planted each year. This will allow the Town and its residents to know how many trees are being planted on Town property each year.



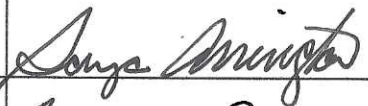
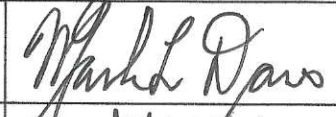
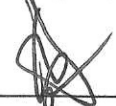
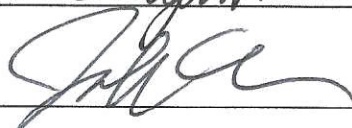
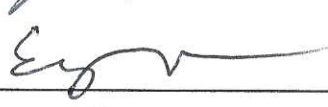
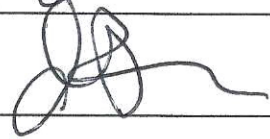
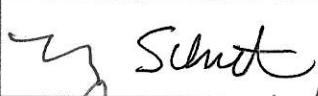
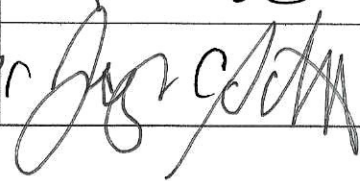
1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.
2. Establish a Tree Commission.
3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

| Vienna Resident       | Signature             | Address                                               |
|-----------------------|-----------------------|-------------------------------------------------------|
| Mary Ellen Larkins    | Mary Ellen Larkins    | 317 Church St NE 22180 Vienna                         |
| DANIEL LARKINS        | Daniel Larkins        | 317 Church St NE VIENNA VIENNA                        |
| ANNA BENSON           | Anna Benson           | 349 CHURCH ST NE                                      |
| Russell F. Benson     | Russell F. Benson     | 349 Church St. NE Vienna                              |
| Alex C. Madison       | Alex C. Madison       | 9480 Virginia Center Blvd. Unit 227, Vienna, VA 22181 |
| HANNA MADISON         | Hanna Madison         | — Same —                                              |
| JASON ADAMS           | Jason Adams           | 348 CHURCH ST, NE 22180                               |
| SCOTT DIJULIO         | Scott DiJulio         | 230 AYR HILL AVE NE, VIENNA 22180                     |
| Elizabeth DiFrancisco | Elizabeth DiFrancisco | 434 Knoll St NW                                       |
| JAMES BURGGRAFF       | James Burgraff        | 218 ELMAR DR SE VIENNA VA 22180                       |
| Lois A. Paige         | Lois A. Paige         | 361 Church St NE Vienna 22180                         |
| Alan D. Paige         | Alan D. Paige         | 361 CHURCH ST NE VIENNA 22180                         |
| Ian Gale              | Ian Gale              | 360 Church St. NE                                     |
| Karen Gale            | Karen Gale            | 360 Church St. NE                                     |

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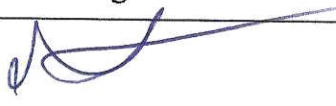
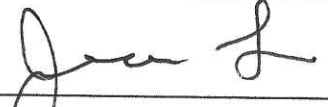
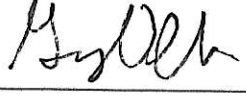
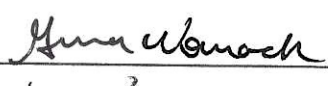
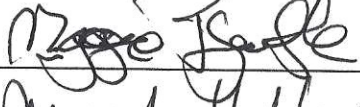
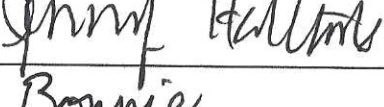
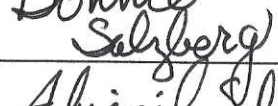
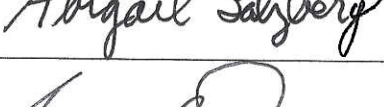
2. Establish a Tree Commission.

3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

| Vienna Resident    | Signature                                                                           | Address                |
|--------------------|-------------------------------------------------------------------------------------|------------------------|
| Sonya Arrington    |    | 345 Church St NE       |
| Marybeth Davis     |    | 209 Glyndon St NE      |
| Mark L. Davis      |    | 209 Glyndon St, NE     |
| Pamela Keene       |    | 344 Church St. NE      |
| Dani Keene         |   | 344 Church St NE.      |
| Monica McCabe      |  | 324 Church St NE       |
| Ouyen Pham         |  | 324 Church St NE       |
| Jen Adams          |  | 318 Church St NE       |
| Emily Yahn         |  | 310 Westview Ct NE     |
| Linnéa Osborne     |  | 316 Church St NE       |
| John Osborne       |  | 316 Church St NE       |
| Debra Randall      |  | 111 Gater St N Apt 204 |
| Nancy Schmeiter    |  | 121 Glyndon St, NE     |
| Joseph C Schmeiter |  | 121 Glyndon St. NE     |



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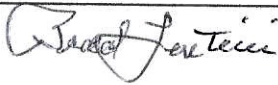
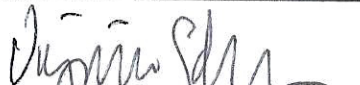
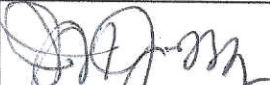
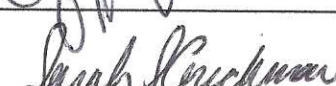
| Vienna Resident    | Signature                                                                           | Address             |
|--------------------|-------------------------------------------------------------------------------------|---------------------|
| NOAH ADLER         |    | 108 KINGSLEY RD SE  |
| Jean Lee           |    | 1002 Desale St SW   |
| Tressi Deller      |    | 1000 Kingsley Rd SE |
| Greg Deller        |    | 106 Kingsley Rd SE  |
| Gina Wonnach       |   | 1013 Cottage St SE  |
| Scott Hallworth    |  | 102 Kingsley Rd SE  |
| Stephanie Paduan   |  | 118 Kingsley Rd SE  |
| Brad Melior        |  | 108 KINGSLEY RD SW  |
| MAGGIE MELIOR      |  | 108 Kingsley Rd SW  |
| Jennifer Hallworth |  | 102 Kingsley Rd SE  |
| Bonnie Salzberg    |  | 613 Upham Place NW  |
| Abigail Salzberg   |  | " "                 |
| JONATHAN ADLER     |  | 108 Kingsley Rd SE  |
| Gina Adler         |  | 108 Kingsley Rd SE  |



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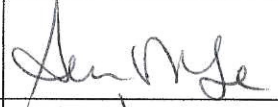
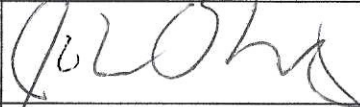
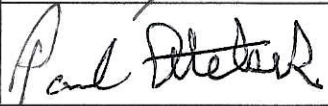
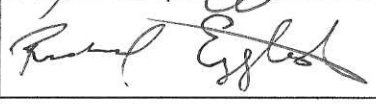
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| Vienna Resident     | Signature                                                                           | Address                                      |
|---------------------|-------------------------------------------------------------------------------------|----------------------------------------------|
| BRAD LENTINI        |    | 416 MARSHALL ROAD SW<br>VIENNA, VA 22180     |
| Edna Trimm          |    | 608 TAZEWELL RD NW<br>Vienna, Va. 22180      |
| Ken Terrell         |    | 205 TAKAKI RD.<br>Vienna, VA 22180           |
| GREG M'CAUGHEN      |    | 205 WHISPERING WIND CT SE<br>VIENNA VA 22180 |
| Gordon Whiteside    |   | <del>101</del><br>707 Hunter Ct SW 22180     |
| Virginia Schoenauer |  | 110 Battle St SW, Vienna, VA 22180           |
| Denise Laver        |  | 800 SHOHANAN CIRCLE 22180                    |
| JULIA KROSZ         |  | 903 Ninoran Rd SE<br>22180                   |
| David Sandidge      |  | 123 Dogwood St. SW<br>22180                  |
| CS Hornbrook        |  | 810 DeSade St SW                             |
| Sarah Couchman      |  | 512 Orchard St. NW                           |
|                     |                                                                                     |                                              |
|                     |                                                                                     |                                              |
|                     |                                                                                     |                                              |

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| Vienna Resident                | Signature                                                                           | Address + Email                                                       |
|--------------------------------|-------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| 8/18 Sandy Shinn               |    | 511 Kibler Cir SW Vienna 22180<br>sandy.shinn@gmail.com               |
| Serena League                  |    | 1105 Ware St SW Vienna 22180<br>Serena.league@verizon.net             |
| <del>Niall League</del>        | <del>Niall League</del>                                                             | 1105 WARE ST SW VIENNA 22180<br>Niall.league@gmail.com                |
| Brian Land                     |    | 504 Ridge Rd SW brian.land@gmail.com<br>Vienna, VA 22180              |
| Ellen Land                     |   | 504 Ridge Rd, SW, Vienna, VA 22180<br>VIENNA, VA                      |
| Jim Asmus                      |  | 910 HILLCREST SW 22180                                                |
| JOHN O'KEEFE                   |  | 412 PECUNIA CT<br>VIENNA 22180 SE                                     |
| Kenneth Sierczga               |  | 54 Kibler Circle SW, Vienna, VA 22180<br>Kenneth.sierczga@verizon.net |
| <del>Janet + Mike Mercer</del> | <del>Janet Mercer</del>                                                             | Janet@jmsat.com                                                       |
| Kathleen Alvarez               |  | 620 Tapawingo Rd SW                                                   |
| Cesar Alvarez                  |  | 620 Tapawingo Rd SW                                                   |
| Paul Atelsek                   |  | 1007 Mountfort Ct<br>Vienna, VA 22180 SW                              |
| 8/19 Reshma Eggleston          |  | 614 Plum St. SW reshmaeggleston@gmail.com<br>Vienna, VA 22180         |
| Richard Eggleston              |  | 614 Plum St. SW<br>Vienna, VA 22180                                   |



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| Vienna Resident                                | Signature             | Address + Email                                                  |
|------------------------------------------------|-----------------------|------------------------------------------------------------------|
| <del>Handwritten</del><br>8/19<br>Kay Spritzer | Kay Spritzer          | 103 East St, A.E 22180                                           |
| Anneline Dietrich                              | Anneline Dietrich     | 1204 Ware St, SW, 22180                                          |
| Ann C. Brown                                   | Ann C Brown           | anncalvertbrown@gmail.com<br>124 Kingsley Rd. SW 22180           |
| Abigail Hedden                                 | Abigail Hedden        | 318 Johnson St SW<br>abigail.hedden@gmail.com                    |
| Inga Erickson                                  | Inga Erickson         | 105 Dogwood St. SW<br>Vienna VA 22180                            |
| Steve Brown                                    | Steve Brown           | stevethesterman@gmail.com<br>124 Kingsley Rd SW Vienna, VA 22180 |
| Elvira Germino Hansen                          | Elvira Germino Hansen | 514 Creek Crossing Rd NE<br>Vienna, VA 22180                     |
| Scott M Stewart                                | Scott M Stewart       | 11044 Ashwood Dr SW<br>Vienna, VA. 22180                         |
| Elizabeth Thomas                               | Elizabeth Thomas      | 1122 Ware St. SW<br>Vienna, VA 22180                             |
| Chris Thomas                                   | Chris Thomas          | 1122 Ware St SW<br>Vienna, VA 22180                              |
| Megan Sierzeza                                 | Megan Sierzeza        | 511 Kibler Cir SW<br>Vienna, VA 22180<br>mesierzeza@gmail.com    |
| Ken Foley                                      | Ken Foley             | 511 Mashie Dr SE<br>Vienna, VA 22180<br>Ken.Foley@verizon.net    |
| Diane Foley                                    | Diane Foley           | 511 Mashie Dr SE<br>Vienna VA 22180                              |
| Linn Foley                                     | Linn Foley            | 511 Mashie Drive SE<br>Vienna, VA, 22180                         |

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|------|--------------------|--------------------|---------------------------------------------------------|
| 8/24 | Patricia Houston   | Pat Houston        | 1011 Tapawingo Rd, SW<br>Vienna, VA 22180               |
| 8/26 | Julie Hielem       | Julie Hielem       | 510 Kibler Cir SW<br>Vienna, VA 22180                   |
| 8/26 | Miguel Fernandez   | Miguel             | <del>507</del> 507 Kibler Circle SW<br>Vienna, VA 22180 |
| 8/26 | Joel Cline         | Joel Cline         | 505 KIBLER CIRCLE SW,<br>VIENNA, VA. 22180              |
|      | Nancy Cline        | Nancy Cline        | 505 Kibler Cir SW<br>Vienna VA 22180                    |
| 8/26 | Rayton Giffen      | Rayton Giffen      | <del>502</del> 502 Kibler Cir SW<br>Vienna, VA 22180    |
| 9/7  | Gabriel Fernandez  | Gabriel Fz.        | 507 Kibler Circle SW<br>Vienna 22180                    |
|      | Steven Torres Ross | Steven Torres Ross | 514 Kibler Circle SW 22180                              |
|      | Maxine Gardner     | Maxine Gardner     | 521 Kingsley Rd. SW                                     |
|      | Cheryl Colvin      | Cheryl Colvin      | 521 Kingsley Rd SW                                      |
|      | Andre Tanas        | Andre Tanas        | 1003 Ware St SW                                         |
|      | Tatiana Miziun     | Tatiana Miziun     | 1003 Ware St SW                                         |
| 9/9  | Pamela Palmer      | Pamela Palmer      | 303 Salisbury Lane NW 22180                             |
|      | John Palmer        | John Palmer        | 303 Salisbury Lane NW 22180                             |



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| Vienna Resident      | Signature          | Address + Email                                               |      |
|----------------------|--------------------|---------------------------------------------------------------|------|
| 9/9 Jennifer Coady   | Jennifer Coady     | 631 TAZEWELL RD NW<br>jencoady@gmail.com                      |      |
| Beth Glicker         | Beth Glicker       | 119 Elm St SW<br>BRG65@verizon.net                            |      |
| Leah Glicker         | Leah Glicker       | 119 Elm St. SW<br>leahrglicker@gmail.com                      |      |
| Amee Martin          | Amee Martin        | 505 LEWIS ST NW                                               |      |
| Eric Robertson       | E. R. S.           | 1001 WARE ST.<br>eric-b-robertson@yahoo.com                   | SW   |
| Kathi Robertson      | Kathi Robertson    | 1001 WARE ST SW<br>kathi.robertson@yahoo.com                  |      |
| Norma Curry          | Norma Curry        | 426 Yeoman Dr<br>Vienna VA 22180                              | SW   |
| Samin Javid          | Samin Javid        | 2202 witness ct<br>vienna, VA, 22181                          | NW   |
| Moc Spangui          | M. Spangui         | 2202 witness ct<br>vienna VA 22181                            | NW   |
| Anne Marie Kelly     | Anne Marie Kelly   | 600 Hillcrest Drive, SW<br>Vienna, VA 22180                   | sign |
| ANGELA RANDALL       | Angela Randall     | 315 Patrick St SW<br>VIENNA VA 22180<br>ARANDALL1@VERIZON.NET |      |
| Laura Jones          | Laura M Jones      | 325 Sherwood Dr NE<br>Vienna, VA 22180                        |      |
| Duane G. Merrill Jr. | Duane G Merrill Jr | 600 Hillcrest Drive, SW<br>Vienna, VA 22180                   |      |
| Nicole McFarigal     | Nicole McFarigal   | 962 Nicholas Cir SE<br>Vienna VA 22180                        |      |

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9/9

| Vienna Resident             | Signature           | Address + Email                                             |      |
|-----------------------------|---------------------|-------------------------------------------------------------|------|
| Anne DISCOLL                | Anne McDaniel       | 607 Upham Place, NW<br>Vienna, VA 22180                     |      |
| Richard Banks               | Richard Banks       | 622 Gibson Dr. SW<br>Vienna, VA 22180                       |      |
| Esther Sienknecht           | Esther Sienknecht   | 1204 Ware St.<br>Vienna, VA 22180                           | SW   |
| Monica Gomez Isaac          | Monica Gomez Isaac  | 800 Ware St SW<br>Vienna, VA 22180                          |      |
| Mary Franceschini           | Mary Salini         | 409 Center St. N<br>Vienna, VA 22180                        |      |
| Robert Franceschini         | Robert Franceschini | 409 Center Street N<br>Vienna VA 22180                      |      |
| (ANTOINETTE)<br>Toni Potter | Antoinette Potter   | 400 Roland St<br>VIENNA VA 22180                            |      |
| Patrice Robitaille          | Patrice Robitaille  | 213 Glen Ave, SW<br>Vienna 22180                            |      |
| John Zimmerman              | John Zimmerman      | 1000 Avenue C SW<br>Vienna VA 22180                         |      |
| Laura Bennett               | Laura Bennett       | 200 Park Terrace<br>Vienna VA 22180                         | SE   |
| Karen Whilden               | Karen Whilden       | 913 Frederick St. SW<br>Vienna, VA, 22180                   |      |
| Jim Brooker                 | J. R. BROOKER       | 820 Plum St SW<br>Vienna, VA 22180                          |      |
| Terry Ayotte                | Terry Ayotte        | 114 Wilmar Pl NW<br>Vienna 22180<br>tayotte@hotmail.com     | sign |
| Mary Burkhus                | Mary Burkhus        | 612 Truman Cr SW<br>Vienna Va 22180<br>mrbrkhus@verizon.net |      |



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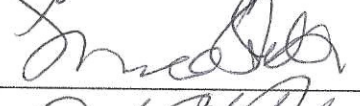
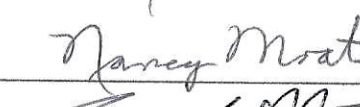
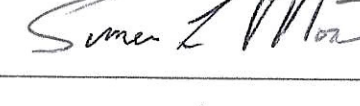
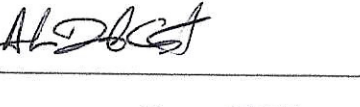
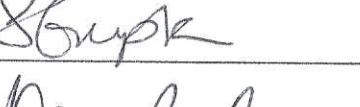
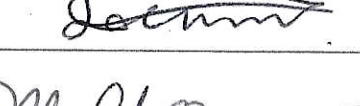
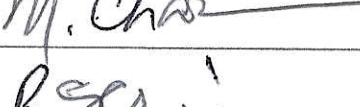
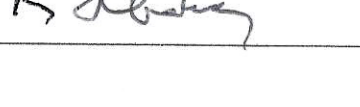
2. Establish a Tree Commission.

3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

| Vienna Resident       | Signature         | Address + Email                                 |    |
|-----------------------|-------------------|-------------------------------------------------|----|
| 9/9 Randall Brinkhuis | Randall Brinkhuis | 210 Park Terr. Ct., SE, #56<br>Vienna, VA 22180 |    |
| Ruth Coleman          | Ruth Coleman      | 909 Olympian Cir<br>Vienna, VA 22180            | SW |
| John P. Giunta        | John P. Giunta    | 117 Moore Ave., SW<br>Vienna, VA 22180          |    |
| 9/16 Holly Beel       | Holly Beel        | 415 Mill St. SE<br>22180                        |    |
| Keith McCormick       | Keith McCormick   | 401 Fellini Court SE 22180                      |    |
| Craig Kochel          | Craig Kochel      | 113 Battle St. SW Vienna VA<br>22180            |    |
| Sheryl Mcbrady        | Sheryl Mcbrady    | 113 Battle St. SW vienna VA 22180               |    |
| Kathleen              | Kathleen          | 400 Nelson Vienna VA<br>22180                   | NE |
| Ivan Harnden          | Ivan Harnden      | 400 Nelson "                                    | NE |
| William Chappell      | William Chappell  | 614 Upham Pl                                    | NW |
| Elizabeth Ryan        | Elizabeth Ryan    | 506 Plum St SW VIENNA<br>22180.                 |    |
| NORMAN RYAN           | Norman Ryan       | 506 PLUM ST SW VIENNA<br>22180                  |    |
| MARK WASHKO           | Mark Washko       | 715 Upham Pl NW                                 |    |
| Trish Cochran         | Trish Cochran     | 113 Elm St SW<br>22180                          |    |

Sign to  
 1 woman for NE Vienna @ Creek Crossing  
 2 2nd sign to Anne Marie Kelly on Hillcrest for neighbor

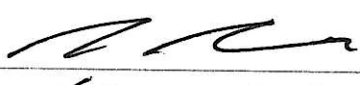
1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.
2. Establish a Tree Commission.
3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

| Vienna Resident | Signature                                                                           | Address                                 |
|-----------------|-------------------------------------------------------------------------------------|-----------------------------------------|
| Rory Daly       |    | 305 East State 22180                    |
| Susan Gillman   |    | 2345 Hill Avenue 22180                  |
| Angela Robinson |    | 515 Creek Crossing Rd 22180             |
| Nancy Moats     |    | 131 Courthouse Rd SW 22180              |
| Simeon Moats    |    | 171 Courthouse Rd SW 22180              |
| ADAM CRIST      |   | 2747 CEDAR CROSSING LANE 22180          |
| David Charin    |  | 403 Center St. N, 22180                 |
| LAURA WOOD      |  | 2448 Shenandoah St. Vienna 22180        |
| Stephanie Gupke |  | 508 Marshure Dr SE<br>Vienna, VA 22180  |
| DIANE Boyle     |  | 113 Dogwood St. SW<br>Vienna, Va. 22180 |
| Doug Croind     |  | 711 Uppham Pl NW<br>Vienna, VA 22180    |
| 'WE'-WE' Lee    |  | 726 UPPHAM PLACE<br>VIENNA VA 22180     |
| Marcia Charin   |  | 403 Center St. N.<br>Vienna, VA 22180   |
| Richard Charin  |  | 403 Center St. N.<br>Vienna, VA 22180   |



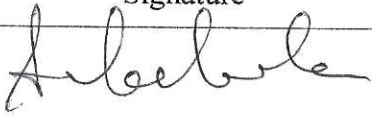
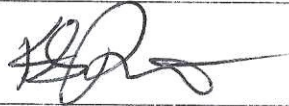
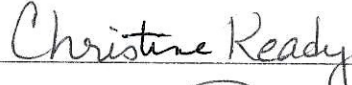
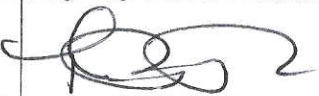
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1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.
2. Establish a Tree Commission.
3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

| Vienna Resident        | Signature                                                                         | Address                                       |
|------------------------|-----------------------------------------------------------------------------------|-----------------------------------------------|
| ERIC FREIWALD          | Eric Freiwald                                                                     | 315 Broadleaf Dr NE<br>Vienna VA 22180        |
| Kim Harris             | Kim Harris                                                                        | 315 Broadleaf Dr NE<br>Vienna VA 22180        |
| Hoyt Bonner            |  | 602 Sidelong Court NE<br>Vienna, VA 22180     |
| # Edward Belte         | Edward A. Belte                                                                   | 412 Druid Hill Rd NE<br>Vienna, VA 22180      |
| Julia Belte            | Julia Belte                                                                       | 412 Druid Hill Rd NE<br>Vienna VA 22180       |
| Jill Miller            | Jill Miller                                                                       | 501 Creek Crossing Rd NE<br>Vienna, VA 22180  |
| Bobby Miller           | Bobby Miller                                                                      | 501 Creek Crossing Rd, NE<br>Vienna, VA 22180 |
| Bob Robinson           | Bob Robinson                                                                      | 515 Creek Crossing Rd<br>Vienna, Va 22180     |
| Laurie Kusek           | Laurie Kusek                                                                      | 320 Westview Ct.<br>Vienna, VA 22180          |
| GREG STOLP             | GREG STOLP                                                                        | 320 WESTVIEW CT. NE<br>VIENNA, VA 22180       |
| Barbara Y.<br>Bosworth | Barbara Y.<br>Bosworth                                                            | 357 Agr Hill Ave. NE<br>Vienna, VA 22180      |
| Michael L.<br>Bosworth | Michael L.<br>Bosworth                                                            | 357 Agr Hill Ave, NE<br>Vienna, VA 22180      |
| Mallory<br>Bonner      | Mallory Bonner                                                                    | 602 Sidelong CT NE<br>Vienna VA 22180         |
| DONALD<br>Nichols      | Don Nichols                                                                       | 367 BROADLEAF DR. N.E.<br>VIENNA VA 22180     |



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| Vienna Resident   | Signature                                                                           | Address                                 |
|-------------------|-------------------------------------------------------------------------------------|-----------------------------------------|
| ANITA MIRSTANSKI  |    | 305 BROADLEAF DR NE<br>VIENNA VA 22180  |
| KEVIN PUTNAM      |    | 302 BROADLEAF DRIVE<br>VIENNA, VA 22180 |
| Sarah Maddox      |    | 306 BROADLEAF DRIVE<br>VIENNA, VA 22180 |
| Ryan Mosser       |    | 306 Broadleaf Dr.<br>Vienna, VA 22180   |
| Christine Keady   |    | 309 Broadleaf DR NE<br>Vienna, VA 22180 |
| Christina Pavelko |   | 313 Broadleaf Dr.<br>Vienna, VA 22180   |
| Thomas A Pavelko  |  | 313 Broadleaf Dr NE<br>Vienna VA 22180  |
| Kathy Feidler     |  | 302 Edwin Lane<br>Vienna 22180          |
| Barbara Thompson  |  | 311 Broadleaf Dr. NE<br>Vienna 22180    |
| X Mark Thompson   |  | 311 Broadleaf Dr. NE<br>Vienna VA 22180 |
| Teresa Hoge       |  | 310 Broadleaf Dr<br>Vienna 22180        |
| Joseph HOGGER     |  | 310 Broadleaf Dr.<br>Vienna, VA 22180   |
| Patrick Samsel    |  | 322 Broadleaf Dr NE                     |
| Rachel Bell       |  | 322 Broadleaf Dr NE                     |

1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.

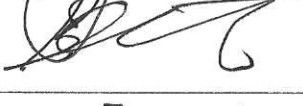
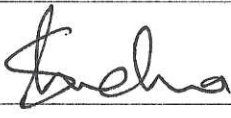
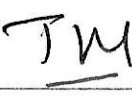
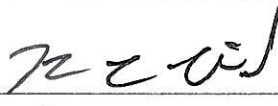
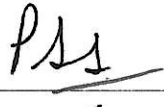
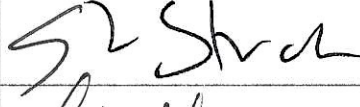
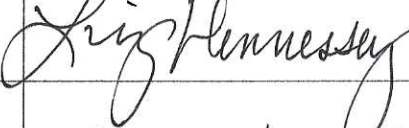
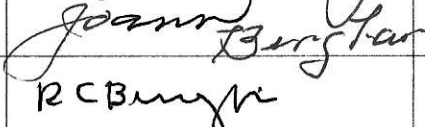
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3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

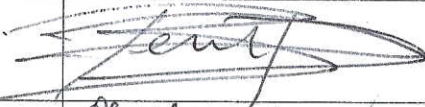
| Vienna Resident     | Signature        | Address                                                |
|---------------------|------------------|--------------------------------------------------------|
| Nicole Giovanniello | Nicole Gio       | 426 Council dr NE<br>Vienna, VA 22180                  |
| Don Giovanniello    | Don Giovanniello | 426 Council DR. NE<br>VIENNA, VA                       |
| Wendy M. Hilton     | Wendy Hilton     | 428 Council Dr, NE<br>Vienna, VA 22180                 |
| SooJung Kim         | SooJung Kim      | 500 Council Ct. NE<br>Vienna VA 22180                  |
| TERRY SVAT          | Terry Svat       | 501 COUNCIL CT. NE<br>VIENNA, VA 22180                 |
| ARUNA Dutta         | Aruna Dutta      | 509 Council Ct. NE<br>vienna, VA 22180                 |
| Penny Boyanton      | P. Boyanton      | 511 Council Ct.<br>Vienna, VA 22180                    |
| E. BOYANTON         | E. Boyanton      | 511 Council Ct <del>Boyanton</del><br>Vienna, VA 22180 |
| Sang Han            | Sang Han         | 514 Council Ct NE<br>Vienna, VA 22180                  |
| Robert Johnson      | Robert Johnson   | 520 Council Ct NE<br>Vienna VA 22180                   |
| Randal Howard       | R. Howard        | 352 Agr Hill Ave, NE<br>22180                          |
| Susan Malick        | Susan Malick     | 302 Westview Ct. NE<br>22180                           |
| Aljandro Beck-Sosa  | Aljandro B-S     | 307 Westview COURT. NE<br>22180                        |
| Oumar Ma Boy'ma     | Oumar Ma         | 307 Westview COURT. NE<br>22180                        |



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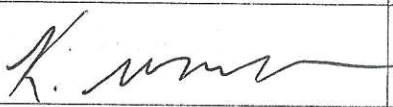
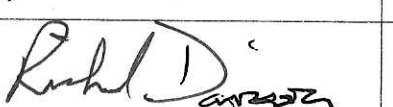
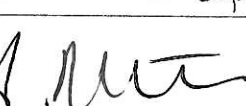
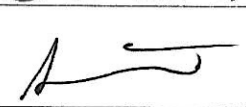
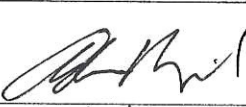
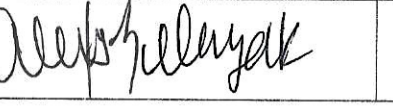
| Vienna Resident                                | Signature                                                                           | Address                                      |
|------------------------------------------------|-------------------------------------------------------------------------------------|----------------------------------------------|
| JEAN Tamburo                                   |    | 120 Elm St SW Vienna VA 22180                |
| Iryna Asipenka                                 |    | 403 Holloway Ct N.E. Vienna VA               |
| Victor Asipenka                                |    | 403 Holloway CT NE Vienna 22180              |
| <del>ANDRIA</del><br><del>GARRETT CONWAY</del> |    | 407 Holloway CT NE                           |
| KENDALL J. MATTER                              |   | 437 Glynndon St. N.E<br>Vienna VA 22180-3539 |
| Sushil Mehra                                   |  | 429 Glynndon St NE<br>Vienna - 22180         |
| Tulika Mehra                                   |  | 429 Glynndon St. NE<br>do -<br>Tulika Mehra  |
| Kevin W. Wil                                   |  | 437 Glynndon St NE<br>Vienna VA 22180        |
| P S Sanders                                    |  | 435 Glynndon St, NE<br>Vienna, VA 22180      |
| John Miranda                                   |  | 303 Ainstree Ct NE<br>Vienna, VA 22180       |
| Sandra Moncrief-Stuart                         |  | 304 Ainstree Ct NE<br>Vienna VA 22180        |
| Liz Hennessey                                  |  | 302 Jean Place NE<br>Vienna, VA 22180        |
| Joann Bergham                                  |  | 304 Jean Place<br>Vienna, Va. 22180          |
| ROBERT BINGHAM                                 |  | 304 Jean Place<br>Vienna VA 22180            |

1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.
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3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

| Vienna Resident         | Signature                                                                         | Address                                            |
|-------------------------|-----------------------------------------------------------------------------------|----------------------------------------------------|
| Benjamin Pico           |  | 200 PARK TERRACE CT SE #4<br>VIENNA, VA 22180      |
| <del>Matt Bagario</del> | <del>Matt Bagario</del>                                                           | <del>1827 Clachan Court<br/>Vienna, VA 22180</del> |
| DOLORES NICHOLS         | Dolores Nichols <sup>(307)</sup>                                                  | 308 BROADLEAF DR. NE<br>VIENNA VA 22180            |
| +1 Cindy Leas           | Cindy Leas                                                                        | 305 Jean Place NE<br>Vienna, VA 22180              |
| AL STADNER              | Al Stadner                                                                        | 303 JEAN PLACE NE<br>VIENNA VA 22180               |
| Karen AKERS             | Karen AK                                                                          | 348 Glyndon St. NE<br>Vienna, VA 22180             |
| John King               | John King                                                                         | #348 Glyndon St.<br>Vienna, VA 22180               |
| Madeline Ky             | Madeline Ky                                                                       | #348 Glyndon St.<br>Vienna, VA 22180               |
| Beth Davis              | Beth Davis                                                                        | 103 Ayr Hill Ave NW<br>Vienna, VA 22180            |
| Tom Mesite              | Tom Mesite                                                                        | 302D Locust St SE<br>Vienna, VA 22180              |
| Ellen Donney            | Ellen Donney                                                                      | 621 Pine Street SE<br>Vienna, VA 22180             |
| Kate Shaffer            | Kate Shaffer                                                                      | 508 Birch St. SW<br>Vienna, VA 22180               |
| Paul Daddo              | Paul Daddo                                                                        | 9775 Oleander Ave<br>Vienna, VA 22180              |
| Maria Stock             | Maria Stock                                                                       | 501 Park Street, NE<br>Vienna, VA 22180            |



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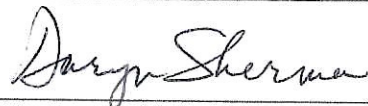
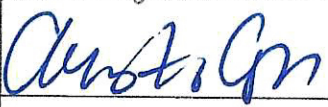
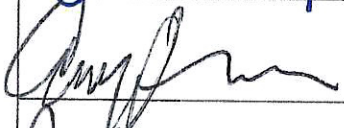
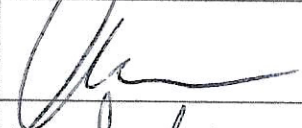
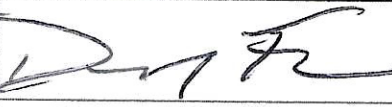
| Vienna Resident | Signature                                                                           | Address                                 |
|-----------------|-------------------------------------------------------------------------------------|-----------------------------------------|
| Karl Stock      |    | 501 Park St NE<br>Vienna VA 22180       |
| Roger Joyal     |    | 328 Sherwood Drive<br>Vienna, VA 22180  |
| Nick Montalto   |    | 324 Sherwood Dr NE<br>Vienna, VA 22180  |
| Denise Montalto |    | 324 Sherwood Dr NE<br>Vienna VA 22180   |
| Neale Ainsfield |    | 331 Sherwood Dr, NE<br>Vienna, VA 22180 |
| Donna Steckmann |   | 331 Sherwood Dr NE<br>Vienna, VA 22180  |
| Cynthia Dawson  |  | 304 Bradley Dr NE<br>Vienna, VA 22180   |
| Richard Dawson  |  | 304 BRADLEY DR NE<br>VIENNA VA 22180    |
| Al Mokham       |  | 405 Afr Hill Ave NE<br>Vienna, 22180    |
| Surinder        |  | 509 Council Court<br>Vienna VA 22180    |
| G. J. SVAT      |  | 501 Council Ct.<br>VIENNA, VA 22180     |
| S. David        |  | 430 Council Dr NE<br>Vienna, VA 22180   |
| Adam Myrick     |  | 424 Council Dr NE<br>Vienna VA 22180    |
| Alexis Zelenyak |  | 424 Council Dr NE<br>Vienna, VA 22180   |

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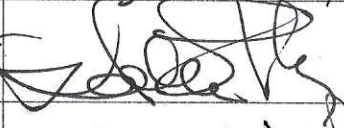
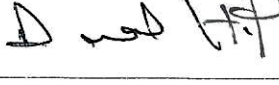
| Vienna Resident    | Signature          | Address                                 |
|--------------------|--------------------|-----------------------------------------|
| Jessica Busche     | Jessica Busche     | 318 Westview Ct NE<br>Vienna, VA 22180  |
| Susan Graves       | S. Graves          | 304 Westview Ct<br>Vienna, VA 22180     |
| Joey Graves        | Joey D. Graves     | 304 Westview Ct<br>Vienna, VA 22180     |
| John Dixon         | John Dixon         | 306 Westview Ct. NE<br>Vienna, VA 22180 |
| Karl Dixon         | Karl Dixon         | 306 Westview Ct. NE<br>Vienna, VA 22180 |
| Samuel Espinosa    | Samuel Espinosa    | 300 Westview Ct NE<br>Vienna, VA 22180  |
| Kim MORGAN         | Kim E. Morgan      | 542 Beulah Rd NE<br>Vienna, VA 22180    |
| Jacqueline Dendine | Jacqueline Dendine | 321 Westview Ct NE<br>Vienna, VA 22180  |
| Paul K...          | Paul K...          | 300 Westview Ct NE<br>Vienna, VA 22180  |
| "                  | "                  | 300 Westview Ct. NE<br>Vienna, VA 22180 |
|                    |                    |                                         |
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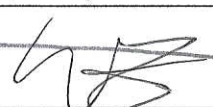
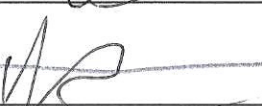
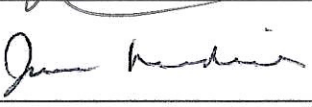
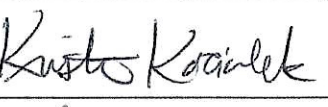
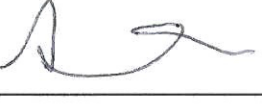
| Vienna Resident                                                                  | Signature                                                                           | Address                                       |
|----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-----------------------------------------------|
| PETER SHERMAN                                                                    |    | 416 CREEK CROSSING RD, NE<br>VIENNA, VA 22180 |
| DARYN SHERMAN                                                                    |    | 1                                             |
| Christine Gph                                                                    |    | 1218 Kelley St SW<br>Vienna VA 22180          |
|  | EDWARD WAGAMAN                                                                      | 425 CENTER ST N<br>VIENNA, VA 22180           |
| Don Wagaman                                                                      |    | 425 Center St N<br>Vienna VA 22180            |
| Adam Yang                                                                        |   | 427 Center St. N<br>Vienna, VA 22180          |
| Mike Janik                                                                       |  | 417 Center St N<br>Vienna VA 22180            |
| Doug Francis                                                                     |  | 417 MacArthur Ave NE<br>Vienna VA 22180       |
|                                                                                  |                                                                                     |                                               |
|                                                                                  |                                                                                     |                                               |
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| Vienna Resident | Signature                                                                           | Address                    |
|-----------------|-------------------------------------------------------------------------------------|----------------------------|
| Gas Moshos      |    | 414 Canal Dr NE            |
| Catina Moshos   |    | 414 Canal Dr. NE Vienna VA |
| George Houdley  | George Houdley                                                                      | 406 Council Dr NE          |
| Hellie Shilling |    | 401 Council Dr NE          |
| DAD PIERCE      |    | 407 Council Dr NE          |
| W. Pierce       |   | 407 Council Dr NE          |
| KANA Ng         |  | 409 COUNCIL DR NE          |
|                 |                                                                                     |                            |
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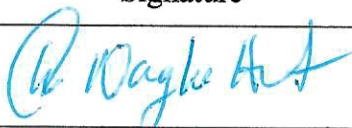
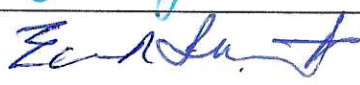
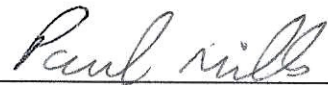


1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.
2. Establish a Tree Commission.
3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

| Vienna Resident          | Signature                                                                                    | Address                                             |
|--------------------------|----------------------------------------------------------------------------------------------|-----------------------------------------------------|
| 9/16 M E Azor            |             | 405 CENTER ST                                       |
| Milagro Crespo           |             | 212 Park Terrace Ct. SE<br>Apt. 67 Vienna VA, 22180 |
| <del>Walter Zvikas</del> | <del></del> | <del>2815 Menwood Oaks Ln<br/>Vienna VA</del>       |
| <del>Handy Harris</del>  | <del></del> | <del>9635 Chatham Creek<br/>Vienna VA 22180</del>   |
| Joan Hendricks           |             | 100 Elmer Dr SW<br>Vienna, VA 22180                 |
| Kristen Kociulek         |            | 507 Tapawingo Rd SW<br>Vienna, VA 22180             |
| Avril Garland            |           | 917 Hillcrest Dr. SW<br>Vienna, VA 22180            |
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from Ann Brown on Kingsley

| Vienna Resident                 | Signature                                                                         | Address + Email                                                   |
|---------------------------------|-----------------------------------------------------------------------------------|-------------------------------------------------------------------|
| Ellen Naylor-Holt<br>JAMES HOLT |  | 114 Melody Ln SW enaylorholt@gmail.com<br>Vienna, VA 22180        |
| EDWARD LUBERT                   |  | 125 KINGSLEY RD. S.W                                              |
| Susan Lubert                    |  | 125 KINGSLEY Rd SW<br>Vienna, VA 22180<br>SUEBYRDLUBERT@gmail.com |
| VALERIE MILLS                   |  | 124 KINGSLEY RD SE<br>VIENNA, VA. 22180                           |
| PAUL MILLS                      |  | 124 Kingsley Rd SE<br>Vienna VA 22180                             |
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1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.
2. Establish a Tree Commission.
3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

| Vienna Resident | Signature       | Address                  |
|-----------------|-----------------|--------------------------|
| Carolyn Manton  | Carolyn Manton  | 911 Frederick St SW      |
| Karen Vukson    | Karen Vukson    | 920 Frederick St SW.     |
| ANDRAS MANTON   | Andras Manton   | 911 Frederick St. SW     |
| HEATHER ADLER   | Heather Adler   | 108 Kingsley Rd SE 22180 |
| Andrea Bilanich | Andrea Bilanich | 214 Apple Blossom Ct     |
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- 1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.**
- 2. Establish a Tree Commission.**
- 3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.**

[illegible]









- 1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.**
- 2. Establish a Tree Commission.**
- 3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.**

[illegible]

1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.
2. Establish a Tree Commission.
3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

| Vienna Resident | Signature                                                                         | Address     |
|-----------------|-----------------------------------------------------------------------------------|-------------|
| Joe Hal Singer  |  | 503 Park SE |
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Subject: FW: Tree talk

pg 32

From: kambiz faris <kambiz777@yahoo.com>  
Sent: Monday, September 25, 2023 6:39 PM  
To: Levy, David <David.Levy@viennava.gov>  
Subject: Tree talk

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good evening,

I live in Vienna Woods and I believe that a Homeowner should be able to choose. A homeowner pays taxes and no one should be able to tell him what to do in his own private property. This is why it is called private. When we bought our home, I had to cut 12 huge trees for the safety and sunlight to come through. one of my neighbors called the police. The police said that it was my right to do as I wished. Since then my family and I have planted over 45 trees in the correct locations.

This might be a fair solution. You plant one for everyone that you cut.

I will be glad to show you my property if you want to come over for a visit.

I am home on most Wednesday mornings.

Regards

Kambiz Faris

**From:** [Lea](#)  
**To:** [Murphy, Jennifer](#)  
**Subject:** Tree Ordinance Comparison document  
**Date:** Monday, September 25, 2023 8:05:26 PM  
**Attachments:** [TreeOrdinanceComparison9-24-23.pdf](#)

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<p><em><span style="color: #ff0000;"><strong>CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.</strong></span></em></p>

Dear Ms. Murphy,

Please forward the attached Tree Ordinance Comparison document to all Planning Commission members.

The document provides a comparison of the options for the proposed Vienna Tree Ordinance changes as discussed in David B. Levy's 9/8/2023 Memorandum. Organized as a table, it identifies each issue, shows a side-by-side view of the two proposed options, and contains a final column for additional discussion and context.

I apologize for the short notice, but I sincerely believe that the document will be very helpful to the Planning Commission members as they review and prepare for the Planning Commission meeting on 9/27 and as a useful reference during the meeting.

Thank You,

Lea Giovanniello



## Comparison of Options for Proposed Vienna Tree Ordinance Changes

|    | Issue for Consideration                                                                                                                                                                                 | Option A: New Chapter of Town Code with All Tree Code Components                                                                                                                                                                                                                                                                                                                                                                                                                           | Option B: Tree Code Updates in Chapter 17, 18, 27                                                                                                                       | Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Where Should the Tree Ordinance be Placed in the Town Code?                                                                                                                                             | The Tree Ordinance would have its own chapter in the Town Code (Chapter 29).                                                                                                                                                                                                                                                                                                                                                                                                               | Tree provisions would be inserted in Chapter 17 – Subdivisions, in the Town Code, under a section that applies to the contents of a preliminary plat for a subdivision. | <ul style="list-style-type: none"> <li>The tree ordinance is intended to apply to all property development, not just subdivisions or property that is being subdivided. Vienna's existing tree replacement requirements are in two sections of the Vienna Town Code: Chapter 17 – Subdivisions (for subdivisions) and Chapter 18 – Zoning (for single-lot development). Placing the tree conservation ordinance in Chapter 17 – Subdivisions suggests the tree ordinance is applicable only to the division of land parcels. Placing the tree ordinance in its own chapter of the Town Code remedies this concern.</li> <li>Having the tree ordinance in its own chapter of the Town Code will make the ordinance easier to locate, read, and understand. It will also convey the importance of trees in Vienna.</li> <li>Other jurisdictions place their tree ordinance in its own chapter: Fairfax County Tree Conservation Ordinance (Chapter 122); Arlington County Tree Preservation Ordinance (Chapter 67); and City of Falls Church Trees and Shrubs Ordinance (Chapter 44). It is sensible for Vienna to do the same.</li> </ul> |
| 2. | Should the Ordinance be based on Fairfax County's Tree Conservation Ordinance?                                                                                                                          | The Tree Ordinance is based on Fairfax County's Tree Conservation Ordinance, which implements Virginia's Tree Conservation statute 15.2-961.1 in Fairfax County. (Chapter 122 of Fairfax County Code).                                                                                                                                                                                                                                                                                     | The tree provisions are from Virginia statute 15.2-961.1. They are not, however, based on Fairfax County's Tree Conservation Ordinance implementing 15.2-961.1.         | There are several benefits to basing Vienna's tree ordinance on Fairfax County's Tree Conservation Ordinance: 1. Vienna is located in Fairfax County and many of the Vienna homebuilders also build in Fairfax County. Having a similar ordinance in Vienna will make it easier for the builders to understand and abide by the ordinance. 2. Fairfax County's tree conservation ordinance has a long track record. The ordinance became effective in 1990 – more than 33 years ago. 3. Paul Emerick, Fairfax County Senior Assistant Attorney, explained that Fairfax County's tree conservation ordinance has never been challenged. No one has sued Fairfax County to challenge the ordinance. 4. Tree experts interviewed explained that Fairfax County is considered the leader in tree conservation in Virginia and is using all the tools available to conserve trees. Accordingly, it is sensible to make use of Fairfax County's experience in this area.                                                                                                                                                                       |
| 3. | Should the Ordinance Contain a Title, a Reference to Va. Authority, a Description of its Applicability, a Statement of its Purpose and Intent, and an Explanation of Who Will Administer the Ordinance? | Similar to Fairfax County's tree ordinance, the ordinance explains that it applies to all land in Vienna, provides for the conservation of trees during development process, and the Director of Parks and Rec. (or his designee) shall administer the ordinance. <u>[Note: References to Va. Code Ann. § 10.1-1127.1 (Heritage Tree Ord.) &amp; §15.2-961 (Tree Replacement Ord.) should be deleted, given that a tree conservation ordinance is under the authority of §15.2-961.1.]</u> | A title, a reference to authority, descriptions of applicability and purpose, and an explanation of administration are not included.                                    | The applicability and statement of purpose are helpful to explain the intent of the tree ordinance, what the tree ordinance does, and who the tree ordinance applies to.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

**Comparison of Options for Proposed Vienna Tree Ordinance Changes**

|    | <b>Issue for Consideration</b>                                                                                    | <b>Option A: New Chapter of Town Code with All Tree Code Components</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>Option B: Tree Code Updates in Chapter 17, 18, 27</b>                                                                                                                                                                          | <b>Discussion</b>                                                                                                                                                                                                                                                                                                                                                                                        |
|----|-------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4. | Should the Ordinance apply to all land being developed?                                                           | Similar to Fairfax County's tree ordinance, the proposed Vienna tree ordinance would state that it applies to all land development requiring the submission of a site plan, preliminary subdivision plat, subdivision construction plan, conservation plan, grading plan, or a rough grading plan.                                                                                                                                                                                                                                                    | The tree ordinance provisions would apply to all listed plans for preliminary subdivision plat, subdivision plan, development or redevelopment,                                                                                   | If the intent is for the tree ordinance to apply to all land development, the ordinance should contain the broader language similar to what is in place in Fairfax County's tree ordinance.                                                                                                                                                                                                              |
| 5. | Which Department should administer the Tree Ordinance?                                                            | The Dept. of Parks and Recreation would administer the ordinance.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | The Dept. of Planning and Zoning would administer the ordinance.                                                                                                                                                                  | Given that Vienna's tree and urban forestry expertise resides in the Dept. of Parks and Recreation, it is sensible that the Dept. of Parks and Recreation administer the tree ordinance.                                                                                                                                                                                                                 |
| 6. | Should the process to obtain a deviation from a tree preservation target be described in the Ordinance?           | The proposed ordinance explains that a deviation request would take the form of a letter addressed to the Director of Parks and Recreation that provides a site-specific narrative explaining why one or more of the conditions allowing a deviation should be considered. The narrative would also provide the basis for the deviation, a detailed description of how the deviation is the minimum necessary to afford relief and describe how the balance of the 20-year tree canopy requirements could otherwise be met by means of tree planting. | Provides that a deviation shall be granted if a written request is submitted and approved by Planning and Zoning. Does not include a description of the process for seeking a deviation or the criteria for granting a deviation. | It is sensible to draw on the process for a deviation request that is already in place in Fairfax County, as set forth in Fairfax County Land Development Services Technical Bulletin 21-01. The process can also be included in the Town's Tree Planting and Preservation Guide.                                                                                                                        |
| 7. | Should the process for submitting a tree conservation plan for review and approval be described in the Ordinance? | Would specify that tree conservation plans would be required to be submitted and approved for development and redevelopment of property, similar to the process that is in place in Fairfax County.                                                                                                                                                                                                                                                                                                                                                   | A provision addressing this process is not included.                                                                                                                                                                              | The process for submission and approval of a tree conservation plan is a key step in the tree conservation process, and it makes sense to specify how the tree conservation requirements are to be met by the submission and approval of a tree conservation plan. Such a process is set forth in Fairfax County's tree ordinance, and it makes sense to include the process in Vienna's tree ordinance. |



| Comparison of Options for Proposed Vienna Tree Ordinance Changes |                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                                                                  | Issue for Consideration                                                                                                         | Option A: New Chapter of Town Code with All Tree Code Components                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Option B: Tree Code Updates in Chapter 17, 18, 27                                                                                                                      | Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 8.                                                               | Should the process for the removal of offsite or jointly owned trees be described in the Ordinance?                             | Would specify that if a tree conservation plan proposes removal of off-site or jointly owned trees because they have critical root zones that extend into the project site and will be encroached on by construction activities causing irreparable damage, a written notice must be sent to the affected adjacent landowners notifying them that tree removal is proposed. The letter shall explain that 1) the trees are proposed for removal at the developer's expense as part of this proposed development, 2) the designated trees cannot be removed without the property owner's permission, and if the owner chooses to retain the trees despite the impacts to the root system, the owner may be responsible for future corrective measures. | A provision addressing this process is not included.                                                                                                                   | It is sensible to make use of, and set forth, the process that is already in place in Fairfax County for the removal of offsite or jointly owned trees, as set forth in Fairfax County Land Development Services Technical Bulletin 21-11. The process can also be included in the Town's Tree Planting and Preservation Guide.                                                                                                                                                                                                                                             |
| 9.                                                               | Should the ordinance provide for the inspection of newly planted trees and existing trees after the completion of construction? | The ordinance would specify that the planting of any new trees would take place after the completion of construction. The Department of Parks and Recreation would inspect the trees prior to planting and also inspect the placement and installation of the trees. All products and workmanship related to the planting of the trees would be in accordance with the Town's requirements.                                                                                                                                                                                                                                                                                                                                                           | An inspection provision is not included.                                                                                                                               | It is sensible to set forth an inspection process that is essentially what already takes place in Vienna and is similar to what is set forth in the City of Falls Church, Code Sec. 44-139(b) and the Fairfax County Public Facilities Manual 12-0500 (Tree Conservation Field Practice).                                                                                                                                                                                                                                                                                   |
| 10.                                                              | Should the ordinance require a one-year bond for new trees?                                                                     | Vienna's Code appears to authorize collection of bonds for both preserved and newly planted trees on redeveloped lots. See Vienna Town Code Sections 17-15T and 18-252E. Vienna currently only collects bonds for Town street trees that may be impacted by new construction. The ordinance would provide for a one-year tree protection bond for all new trees. If the trees are thriving and in good condition one year from the date of planting the bond shall be returned. Otherwise, the trees shall be replaced.                                                                                                                                                                                                                               | This provision is not included. The Vienna Town Attorney has indicated that he is concerned that a one-year tree bond might not be authorized by the General Assembly. | 1. A tree bond helps promote tree survival. 2. New trees typically come with a one-year guarantee and a tree bond is consistent with such a guarantee. 3. Other communities in Virginia, including Falls Church, Charlottesville, Chesapeake, and Suffolk have tree bond requirements in their tree ordinances. 4. A tree bond is consistent with the intent of Virginia's Tree Conservation Statute and Virginia's Chesapeake Bay Preservation Act, and is within "the powers necessarily and fairly implied from the grant of power," as permitted under the Dillon Rule. |

## Comparison of Options for Proposed Vienna Tree Ordinance Changes

|     | Issue for Consideration                                                                                                        | Option A: New Chapter of Town Code with All Tree Code Components                                                                                                                                                                                                                                                                                                                                                                                           | Option B: Tree Code Updates in Chapter 17, 18, 27                                                                                                                                                                                                                                                                                              | Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11. | Should the ordinance state that approval of a tree conservation plan satisfies the developer's tree conservation requirements? | Similar to Fairfax County's tree ordinance, the ordinance would specify that approval of a tree conservation plan meeting the requirements of this chapter shall be deemed to satisfy tree conservation requirements.                                                                                                                                                                                                                                      | This provision is not included.                                                                                                                                                                                                                                                                                                                | The tree conservation plan sets forth the details of how the developer proposes to comply with the tree conservation ordinance. It makes sense to have the ordinance state that approval of the tree conservation plan will satisfy the tree conservation requirements. This is not controversial and is set forth in the Fairfax County tree conservation ordinance.                                                                                                                     |
| 12. | How should the ordinance set forth penalties for violations?                                                                   | Sets forth an enforcement and penalty provision in the ordinance that is similar to what is in place in Fairfax County. <u>Note: 961.1 states that penalties shall be the same as those applicable to violations of zoning ordinances of the locality. Accordingly, it seems appropriate for the tree ordinance to reference the penalty provision in the new Code Create Zoning and Subdivision Ordinance, Town Code §§18-840 – 854.</u>                  | States that the penalties for violation shall be the same as those applicable to criminal/civil violations of the Zoning Ordinance of the Town of Vienna.                                                                                                                                                                                      | <u>It seems appropriate for the tree ordinance to reference the penalty provision in the new Code Create Zoning and Subdivision Ordinance, Town Code §§18-840 – 854.</u><br><br>Vienna Town Code currently provides for a penalty of \$250 and classification as a Class 3 misdemeanor for tree canopy violations under both Section 17-15.1 (subdivisions) and Section 18-252 (zoning). Code Create maintains this same penalty as set forth in Section 18-854.5 (Tree Canopy Coverage). |
| 13. | Should the ordinance contain definitions of "clearing" and "critical root zone"?                                               | Includes the definitions of Clearing and Critical Root Zone. These terms are defined in the Fairfax County Tree Ordinance.                                                                                                                                                                                                                                                                                                                                 | Does not include these definitions, presumably because the TA version of the ordinance does not use the terms.                                                                                                                                                                                                                                 | If the provisions that use these terms are included as part of Vienna's tree ordinance (Secs. 29-4-1 and 29-6-3 in the Option A version), it makes sense to include the definitions.                                                                                                                                                                                                                                                                                                      |
| 14. | Should the ordinance establish a tree commission?                                                                              | Would establish a Vienna Tree Commission that would advise & assist Town Council and Town Staff on matters relating to conservation & management of the Town's trees & tree canopy and assist the Town in the development & maintenance of specifications & guidelines related to trees.                                                                                                                                                                   | Proposes revisions to Vienna Code Section 27.5 which would specify that the Tree Board (currently the Town's Conservation and Sustainability Commission) would be structured as a subcommittee of the CSC with 7 members (5 newly appointed, 2 from CSC). The Tree Board would be a separate entity operating within the framework of the CSC. | Other jurisdictions have tree commissions, and none are a subcommittee or part of another committee: Fairfax County Tree Commission; City of Falls Church Urban Forestry Commission; Arlington County Forestry & Natural Resources Commission; Leesburg Tree Commission; Charlottesville Tree Commission; Abington Tree Commission. In the same way, Vienna will benefit by establishing a Tree Commission that is not a subcommittee.                                                    |
| 15. | Should the ordinance establish an annual tree report for Vienna?                                                               | Would have the Town publish and update annually information and statistics regarding the Town's efforts with regard to trees, including a) the amount spent, b) the number of trees planted, c) the number of trees cut down or removed, d) the extent of or changes to the Town's tree canopy, and e) data regarding the Town's street trees, such as the percentage of street tree planting sites that are filled, and planting sites that are unfilled. | Proposes that the Tree Board (which would be a subcommittee of the Conservation and Sustainability Commission) would present an annual Tree Report to the CSC for presentation to the Town Council.                                                                                                                                            | Given that the Town staff will have access to the information and statistics regarding the Town's efforts with regard to trees, it is reasonable that the Town, rather than the Tree Board, compile and publish the tree statistics.                                                                                                                                                                                                                                                      |



**From:** [Mary Flounlacker](#)  
**To:** [Murphy, Jennifer](#)  
**Subject:** Tree ordinance  
**Date:** Monday, September 25, 2023 8:32:50 PM

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</em></p>

We fully support tighter rules for tree preservation within the town. Thank you.  
Mary and James Flounlacker  
907 Country Club Dr NE

**From:** [Roxanne-Cell](#)  
**To:** [Murphy, Jennifer](#)  
**Subject:** Save the trees!  
**Date:** Tuesday, September 26, 2023 10:20:29 AM

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<p><em><span style="color: #ff0000;"><strong>CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.</strong></span></em></p>

I support the proposal for trying to save healthy trees on properties for new development.

Roxanne Timberlake  
509 Adelman Cir SW

**From:** [Diane Rosenthal](#)  
**To:** [Murphy, Jennifer](#)  
**Subject:** Please stop cutting down trees!  
**Date:** Tuesday, September 26, 2023 10:28:24 AM

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<p><em><span style="color: #ff0000;"><strong>CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.</strong></span></em></p>

Hello Ms. Murphy- Not sure I will be able to make it to the meeting. But I would like to voice my support for less tree removal!!

Love our trees!

Diane

Sent from my iPad



**From:** [A Jones](#)  
**To:** [Murphy, Jennifer](#)  
**Subject:** Tree Canopy input  
**Date:** Tuesday, September 26, 2023 12:19:21 PM

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***CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.***

To Whom It May Concern:

I support Vienna's attempts at retaining and even increasing tree canopy. However, as a resident/owner of a non-confirming lot, significantly smaller than most RS-10 parcels of land, I urge the Town to consider **adjusting the percentage of canopy coverage in accordance to the size of the lot**. For example, our lot is about 7500 sq feet, 25% smaller than the RS-10 designation (10K). In this example, the Tree Canopy requirement on a lot of this size would be adjusted down by 25%, from the proposed 20% coverage to 15% (75% of the 20%). In lots that are larger, perhaps their Tree Canopy coverage should be adjusted up.

Secondly, I strongly encourage the Town to pressure (or incentivize if need be) developers to leave existing trees in place! The fact that developers clear cut lots of their beautiful, mature trees is irresponsible.

Thanks for your work on this most important topic.

Sincerely,  
Amy Jones  
127 Wilmar Place, NW

**From:** [Rob Fisher](#)  
**To:** [Murphy, Jennifer](#); [Levy, David](#)  
**Subject:** Planning Commission- Tree Ordinance Comments  
**Date:** Tuesday, September 26, 2023 2:48:55 PM  
**Attachments:** [Town of Vienna Planning Commission.pdf](#)

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Good afternoon,

The TOV builder group respectfully requests the attached letter be submitted to the Planning Commission as part of their Tree Ordinance Discussion tomorrow night. We support whatever process the town decides on, but are concerned about possible delays in permit processing that might stem from rolling out the new process.

Please let me know if you have any questions.

Rob

**Rob Fisher, Owner**  
**Fisher Custom Homes, LLC**  
**131 Church St NW**  
**Vienna VA 22180**

[rob@fishercustomhomesva.com](mailto:rob@fishercustomhomesva.com)  
703-281-0009

***2018 NVBIA CUSTOM HOME BUILDER OF THE YEAR***  
***Chairman, NVBIA Custom Builders Council***



Town of Vienna Planning Commission

Re: September 27 Meeting regarding changes to the Tree Canopy Code

9-26-2023

Members of the Planning Commission,

The builder's group of Vienna has 5 local residential builders and 2 civil engineers that have experience in the Town. We meet with Town staff every other month to refine or implement processes related to new single-family homes and other related topics.

About 2 years ago, several of our members were engaged with the Town Arborist and Mr. Land for discussions on canopy coverage and tree preservation. We appreciate early discussions that will impact our businesses.

Since then some work has been done in formulating the proposed ordinance. As a group we consider this a policy decision and will refrain from opining on those discussions.

While we are happy to comply with whatever changes the town determines appropriate for the ordinance, we would like to express our concerns about the implementation of this policy. Our main goal is to ensure that this new policy will not cause delays in conducting our business. We find that the successful implementation of new policies requires fully developed check lists, clearly defined terms and clearly defined processes. Additionally, a delayed effective date gives staff time to prepare these items.

Our members, including a consulting arborist that submits dozens of plans to the town request collaboration on the implementation of this policy. This engagement happens frequently with new policy and/or code. The Town has proven in the past to excel when a meaningful level of collaboration is utilized.

Respectfully,

Rob Fisher, Fisher Custom Homes, LLC  
Patrick Ohlhurst, Cloud IX Homes  
Patty Hanley, Bukont Homes  
Jordan Rice, JDA Custom Homes  
Collin Sekas, Sekas Homes  
Rabee Aboulmouna, Land Design  
Lloyd Ntuk, Land Engineering



**From:** [Kevin Kilcullen](#)  
**To:** [Murphy, Jennifer](#)  
**Subject:** Re: Proposed tree ordinance  
**Date:** Wednesday, September 27, 2023 10:50:57 AM

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Hello Jennifer. Thanks again for sharing the information about the proposed changes to the town's tree ordinance and creation of a tree commission. I have a few comments and questions.

First, after reviewing all of the information provided, I recommend adopting a new tree ordinance. In my opinion, it's a much cleaner read and covers the essential points fairly well.

I am pleased to see that the town is proposing something consistent with Fairfax County standards. I wish there was a way to increase minimum tree canopy requirements beyond the 25% standard, but realize that this is unlikely given the need for compatibility with other state and county standards.

The ordinance is clear about applying to property (I assume private?) that is being developed. Will the same standards and a tree conservation plan be required for projects on public areas owned and maintained by the town? Having the same requirements apply across the board would help convince many skeptical residents that the town is taking this issue seriously. Having witnessed damage to or the destruction of so many healthy trees during the renovation of the community center and recently the construction of new sidewalks using the Maud Robinson funds, it makes sense to me to have consistent standards for maintaining and restoring the town's entire tree canopy. The town has a perfect opportunity currently to demonstrate leadership through its deliberations over the future use of the old Baptist Church property on Center Street and Northside Park. A good time to step up the talk into meaningful action.

The ordinance indicates that the Director of Recreation and Parks will have a large role in reviewing and monitoring tree conservation efforts. I assuming that this means that qualified arborists on staff will be engaged in this work, correct? I realize that this is beyond the ordinance topic, but will the town have enough qualified staff to handle the expanded workload?

Having a tree commission with a balanced membership is a good idea. How will this new commission interact with the town's sustainability committee? It seems to me that both entities would benefit by interacting regularly, as long as it does not add another bureaucratic layer to the process. While beyond the scope of the tree

ordinance, the town-wide tree conservation plan should be modified to address the proposed changes.

Finally, I see the role of community engagement and information sharing as a key responsibility of the tree commission. Since much of the recently lost tree canopy (160 acres) has been on private property, it is really important to encourage property owners to consider substituting current practices for a more ecological friendly approach. This also means providing the means and skills to assist the tree commission in fulfilling its work.

I hope these comments are useful.

Regards,

Kevin Kilcullen  
612 Hillcrest Drive

On Thu, Sep 21, 2023 at 12:36 PM Murphy, Jennifer <[Jennifer.Murphy@viennava.gov](mailto:Jennifer.Murphy@viennava.gov)> wrote:

Good afternoon,

Thank you for your comments and feedback. The Planning Commission has a public hearing scheduled for next Wednesday, September 27th at 7:30 pm. Members of the public will have an opportunity to speak at that meeting. If you prefer, you can also provide written comments in advance of the meeting. Anything you send to me I will forward on to members of the Planning Commission.

There will be a brief overview provided by staff at the meeting. Please review information that is currently posted online at: <https://www.viennava.gov/your-government/town-departments-at-your-service/planning-and-zoning/zoning-code-update-code-create-vienna>

Also, this item was discussed at their September 13th meeting. You may find it helpful to review. That meeting can be viewed online at: <https://vienna-va.legistar.com/Calendar.aspx>

Please let me know if you have any further questions.

Jennifer Murphy  
Department of Planning & Zoning  
Planning Specialist  
[Jennifer.murphy@viennava.gov](mailto:Jennifer.murphy@viennava.gov)  
703.255.6349 (office)  
[viennava.gov](http://viennava.gov)

-----Original Message-----

From: Kevin <[kevink0417@gmail.com](mailto:kevink0417@gmail.com)>

Sent: Wednesday, September 20, 2023 6:41 PM  
To: Murphy, Jennifer <[Jennifer.Murphy@viennava.gov](mailto:Jennifer.Murphy@viennava.gov)>  
Subject: Proposed tree ordinance

<p><em><span style="color: #ff0000;"><strong>CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.</strong></span></em></p>

Hello. I understand that the Town Council has referred a revised tree ordinance to the Planning Commission for review and a recommendation. If so, will there be an opportunity for the public to review and comment on proposed changes?

As a suggestion, if there is a public hearing, it would be very helpful to offer a short presentation on the existing ordinance, proposed revisions, and overall objectives of the effort. This will help interested citizens understand the desired outcomes and potential positive effects on the town's tree canopy.

Sent from my iPad

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Town of Vienna, Virginia

Website: <http://www.viennava.gov>

Facebook: <http://www.facebook.com/TownofViennaVA>

Twitter: <http://www.twitter.com/TownofViennaVA>



**From:** [cathy.sonti@gmail.com](mailto:cathy.sonti@gmail.com)  
**To:** [Murphy, Jennifer](#)  
**Subject:** today's meeting - resident input on tree canopy  
**Date:** Wednesday, September 27, 2023 3:29:05 PM

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***CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.***

As a Vienna town resident and property owner,

1. I support tree preservation (so, I support Virginia state code perspective). Tree planting requirements in Vienna aren't mitigating the impact of mature tree loss.
2. I support changes suggested by Brian Land to the town code regarding the tree canopy and moving tree management to Parks and Recreation.

A summary from my perspective:

- the physical loss of mature trees in Vienna has been dramatic in the last 10 years
- loss of mature trees is not mitigated by town code of tree planting requirements (within 20 years)
- tree planting requirements seem to impose on property rights of owners who have no intention or desire to plant
- tree planting requirements are difficult to enforce on property owners

To be clear - I support the trees – and it seems the Town of Vienna is in a real conundrum in its identity as a Tree City USA designation.

Our town's growth has occurred at the expense of mature trees.  
Vienna must continue to address this critical issue.

Thank you,

**Cathy Trybul Sontheimer** (and family)  
Vienna town residents for 20 years  
1011 Mountfort Ct., SW, Vienna, VA 22180  
703.405.4230 Mobile

-----Original Message-----

From: Jill Miller <jlaimiller@gmail.com>  
Sent: Wednesday, September 27, 2023 5:58 PM  
To: Levy, David <David.Levy@viennava.gov>  
Subject: Tree ordinance

<p><em><span style="color: #ff0000;"><strong>CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.</strong></span> </em></p>

Mr. Levy,

I can't attend this evening's hearing but do want to express support for the town's work to preserve and increase the tree canopy.

Reading the proposals, I see the penalty for any violation is \$250, presumably per tree. That amount means virtually nothing to developers who, as you know, are building homes that sell for considerable sums. I hope the town will consider raising the fines for violations to a more meaningful amount. From the builders' viewpoint surely conservation these days can only be a plus for their image.

I do hope the town also will consider native, beneficial trees such as oaks, maples etc.

Thank you for your attention and your work.

Sincerely,  
Jill Miller  
501 Creek Crossing Rd NE

**From:** [Levy, David](#)  
**To:** [Brian Land](#)  
**Cc:** [Murphy, Jennifer](#)  
**Subject:** FW: Submission of Comments to Planning Commission  
**Date:** Thursday, September 28, 2023 12:57:35 PM  
**Attachments:** [PlanningCommissionHearing-BrianLandStatement.docx](#)  
[ComparisonOption1vFFCounty.docx](#)

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Brian –

Thank you for these submissions and, even more broadly, for the volunteer work you’ve done for the Town over the past many years.

Jennifer and I will make sure that these submissions are forwarded to the Planning Commission and placed in the Public Record.

David

David B. Levy, AICP  
Director  
Department of Planning and Zoning  
127 Center Street, South  
Vienna, Virginia 22180  
703-255-6340 (desk)  
[David.levy@viennava.gov](mailto:David.levy@viennava.gov)

---

**From:** Land, Brian <[bland@kirkland.com](mailto:bland@kirkland.com)>  
**Sent:** Thursday, September 28, 2023 11:49 AM  
**To:** Levy, David <[David.Levy@viennava.gov](mailto:David.Levy@viennava.gov)>  
**Subject:** Submission of Comments to Planning Commission

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David,

I appreciated the opportunity to speak to the Planning Commission on Wednesday night.

I am submitting two documents as a written comments submission. The first is a copy of the statement I read on Wednesday night. The second is a copy of the Option 1 ordinance blacklined against Fairfax County’s existing tree conservation ordinance, with footnotes that describe the other sources for the proposed ordinance (which are all from either Fairfax County or Falls Church).

Best Regards,



Brian

**Brian R. Land**

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**KIRKLAND & ELLIS LLP**

1301 Pennsylvania Avenue N.W., Washington, D.C. 20004

**T** +1 202 389 5956

**F** +1 202 879 5200

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[brian.land@kirkland.com](mailto:brian.land@kirkland.com)

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9/27/23

| <b>Option 1 Blacklined to Show Comparison with Fairfax County's Tree Conservation Ordinance</b><br><b>Footnotes Show the Source in Fairfax County and Falls Church for Other Provisions</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Footnote                                                                                                                                                                                    | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 1                                                                                                                                                                                           | <p>Critical root zone: This definition is in Fairfax County Code 120-2-1<br/> <a href="https://library.municode.com/va/fairfax_county/codes/code_of_ordinances?nodeId=THCOCOF_AVI1976_CH120HESPMESTTROR_ART2DE_S120-2-1DE">https://library.municode.com/va/fairfax_county/codes/code_of_ordinances?nodeId=THCOCOF_AVI1976_CH120HESPMESTTROR_ART2DE_S120-2-1DE</a></p> <p>This definition is also in several other Virginia locality tree ordinances, including Norfolk, VA and Abingdon, VA.</p>                                                                                                                                                                                                                                |
| 2                                                                                                                                                                                           | <p>The process for a deviation request is consistent with what is in place in Fairfax County, as set forth in the Fairfax County Land Development Services Technical Bulletin 21-01.<br/> <a href="https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/Assets/Documents/21-01-tech-bulletin-tree-preservation-submission-deviations.pdf">https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/Assets/Documents/21-01-tech-bulletin-tree-preservation-submission-deviations.pdf</a></p>                                                                                                                                                                                               |
| 3                                                                                                                                                                                           | <p>The cost for the tree fund is from the Fairfax County Public Facilities Manual, 12-0312,<br/> <a href="https://online.encodeplus.com/regs/fairfaxcounty-va-pfm/doc-viewer.aspx#secid-583">https://online.encodeplus.com/regs/fairfaxcounty-va-pfm/doc-viewer.aspx#secid-583</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 4                                                                                                                                                                                           | <p>The tree planting fund is authorized by the Code of Virginia § 15.2-961.1.G<br/> <a href="https://law.lis.virginia.gov/vacode/title15.2/chapter9/section15.2-961.1/">https://law.lis.virginia.gov/vacode/title15.2/chapter9/section15.2-961.1/</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 5                                                                                                                                                                                           | <p>The process for a proposed removal of offsite or jointly owned trees set forth in Sec. 29-4-1 pars 4 and 5 is consistent with what is in place in Fairfax County, which is set forth in Fairfax County Land Development Services Technical Bulletin 21-11.<br/> <a href="https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/21-11-notification-of-proposed-removal-of-trees.pdf">https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/21-11-notification-of-proposed-removal-of-trees.pdf</a></p>                                                                                                                                              |
| 6                                                                                                                                                                                           | <p>This inspection process is set forth in the City of Falls Church Tree Preservation and Replacement Guide for Development and/or Redevelopment on Single Family Residential Lots, Rev. 5/2019, p. 19. <a href="https://www.fallschurchva.gov/DocumentCenter/View/157/Urban-Forestry-Development-Guidelines?bidId=">https://www.fallschurchva.gov/DocumentCenter/View/157/Urban-Forestry-Development-Guidelines?bidId=</a></p>                                                                                                                                                                                                                                                                                                 |
| 7                                                                                                                                                                                           | <p>A two-year bond is required for existing trees and a one-year bond is required for new trees by the City of Falls Church, <u>see</u> Code of the City of Falls Church, Sec. 44-136 <a href="#">Sec. 44-136. - Purpose and amount of bond.</a> and City of Falls Church Tree Preservation and Replacement Guide for Development and/or Redevelopment on Single Family Residential Lots, Rev. 5/2019, p. 25 (new trees), p. 26 (existing trees) <a href="https://www.fallschurchva.gov/DocumentCenter/View/157/Urban-Forestry-Development-Guidelines?bidId=">https://www.fallschurchva.gov/DocumentCenter/View/157/Urban-Forestry-Development-Guidelines?bidId=</a> This ordinance proposes a one-year bond for new trees.</p> |
| 8                                                                                                                                                                                           | <p>This post-construction inspection process is consistent with what is set forth in the Code of the City of Falls Church, Sec. 44-139(b),<br/> <a href="https://library.municode.com/va/falls_church/codes/code_of_ordinances?nodeId=PTIICOOR_CH44VE_ARTIITRSH_DIV5TRPRMAAGBO_S44-139PRADBOTEBO">https://library.municode.com/va/falls_church/codes/code_of_ordinances?nodeId=PTIICOOR_CH44VE_ARTIITRSH_DIV5TRPRMAAGBO_S44-139PRADBOTEBO</a></p>                                                                                                                                                                                                                                                                               |

**CHAPTER ~~122. Tree Conservation Ordinance~~ 29 - TREE CONSERVATION****ARTICLE 1. ~~General Provisions~~ GENERAL PROVISIONS****~~Section 122~~Sec. 29-1-1. Title.**

This ~~Chapter~~ shall ~~hereafter~~ be known, ~~cited, and referenced to~~ as the "Vienna Tree Conservation Ordinance" of Fairfax County."

**~~Section 122~~Sec. 29-1-2. Authority.**

This chapter is enacted pursuant to the authority ~~and mandates of~~ Va. Code Ann. ~~§ §§ 10.1-1127.1, 15.2-961, and 15.2-961.1.~~

**~~Section 122~~Sec. 29-1-3. Enactment.**

This ~~Chapter~~ shall be effective at 12:01 a.m. on January 1, 200924.

**~~Section 122~~ Sec. 29-1-4. Areas of ~~a~~ Applicability.**

This ~~Chapter~~ and all regulations adopted hereunder shall apply to all land located within the ~~unincorporated areas of Fairfax County.~~ Town of Vienna.

**~~Section 122~~ Sec. 29-1-5. Purpose and intent.**

The purpose and intent of this ~~Chapter~~ is to provide for the conservation and management of Town trees, and to provide for the conservation of trees during the land development process. The conservation (i.e., preservation and planting) of trees ~~during the land development process~~ will protect, sustain, and enhance the ~~County's~~ urban forest resources. These forest resources provide important aesthetic, social, and economic benefits and are indispensable to the conservation and management of vital atmospheric, water, soil, and ecological resources.

**~~Section 122~~Sec. 29-1-6. Administration.**

The Director of ~~Land Development Services~~ Parks and Recreation or his designee shall be responsible for the administration and enforcement of this ~~Chapter~~.

**~~Section 122~~Sec. 29-1-7. Severability.**

If any of the articles, sections, paragraphs, sentences, clauses, or phrases of this ~~Chapter~~ shall be declared unconstitutional or invalid by a valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of this ~~Chapter~~ in its entirety or any of the remaining articles, sections, paragraphs, sentences, clauses, and phrases herein.

**ARTICLE 2. ~~Tree Conservation During Land Development~~ DEFINITIONS****~~Section 122~~Sec. 29-2-1. Definitions****(a) ARTICLE 2. DEFINITIONS**

- (a) ~~Clearing~~ means removing or causing to be removed the vegetation growing in the soil which protects and stabilizes the soil. Such removing or causing to be removed shall include any intentional or negligent act to: (1) cut down, (2) remove all or a substantial part of, or (3) damage a tree or other vegetation which will cause the tree or other vegetation to decline and/or die. Such acts shall include but not be limited to damage inflicted upon the root system of the vegetation by the application of toxic substances, by the operation of equipment and vehicles, by storage of materials, or by ~~alteration~~ the damage of ~~the~~ natural grade due to unapproved excavation or filling~~s~~, or damage caused by the unapproved alteration of natural physical conditions.

~~(b) — Director means the Director of the Department of Land Development Services.~~

~~(b) Critical root zone means the minimal surface area and associated underground root system and soil that must remain undisturbed in order for a tree to survive significant soil disturbing activities such as~~



compaction, cutting, grading, or filling that will occur in close proximity to the tree. The Critical root zone is defined by a circle whose radius starts at the center of the tree's trunk and terminates in any direction at the outer boundary of the area that must be left undisturbed in order to ensure tree survival.<sup>1</sup>

- (c) *Forested area:* ~~Areas~~ means areas comprised of self-supporting tree and woody plants that exceed five feet in height at time of plan submission and meet criteria for health, condition and suitability as further defined in this section. Areas that meet the administrative definition provided above usually represent native forest or woodland plant communities that occur in a range of successional stages from rapidly changing early successional pioneer woodlands (often described as "scrub") to stable long-term sub-climax and climax forests. During mid to late successional stages, these plant communities typically consist of multiple layers of vegetation and other natural features including: super- and sub-canopy tree species; woody shrubs, herbaceous plants, vines, non-vascular plants and epiphytes; decaying leaf litter, root mass, fungi, soil biota; and abiotic components which the vegetation is dependent upon such as: soils, hydrologic conditions, and underlying geomorphic features.
- (d) *Tree:* ~~Any~~ means any self-supporting woody plant which visually produces one main trunk and a more or less distinct and elevated head with many branches that typically reach at least 15 feet in height at maturity, and for purposes related to ~~ten~~ 20-year tree canopy requirements exceeds five feet in height at time of plan submission.
- ~~(e) *Tree canopy coverage:* The land area directly beneath the crown and within the dripline of a tree, or in the case of a group of trees or a forested area, the coalesced area directly beneath the overlapping crowns of trees whose boundary is defined by the extents of its outermost driplines.~~
- ~~(e) *Tree canopy* includes all areas of coverage by plant material exceeding five feet in height, and the extent of planted tree canopy at 20 years maturity. Planted canopy at 20 years maturity shall be based on published reference texts generally accepted by landscape architects, nurserymen, and arborist in the community.~~
- ~~(f) *Tree Conservation:* As (f) *Tree conservation*, as applied to trees and forested areas, ~~tree conservation~~ incorporates both tree preservation and tree planting efforts.~~

### ARTICLE 3. TREE CONSERVATION DURING LAND DEVELOPMENT

#### Sec. 29-3-1. ~~Ten Year~~ Tree Canopy Requirements.

- (a) All land development requiring the submission of a site plan, preliminary subdivision plat, subdivision ~~construction~~ plan, conservation plan, grading plan, or a rough grading plan, shall provide for the conservation of trees on the site such that, after ~~ten~~ (10/20) years, minimum tree canopy is projected to be as follows:

**Table 1 ~~10-Year~~ Tree Canopy Requirements as applied to Town of Vienna Zoning Districts**

| Use or Zoning District                                                                  | Percentage of <del>s</del> Site to be <del>e</del> Covered by <del>tree canopy</del> <u>Tree Canopy</u> in <del>10 years</del> <u>20 Years</u> |
|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <del>Dedicated school, athletic field, nonwooded active recreation area</del>           |                                                                                                                                                |
| <del>Commercial Revitalization District</del>                                           | <del>See Note Below</del>                                                                                                                      |
| <del>Commercial; Industrial; PDC; R-20; R-30; PDH-20; PDH-30; PDH-40; PRM; R-MHP;</del> | <del>Ten percent (10%)</del>                                                                                                                   |

<sup>1</sup> This definition is in Fairfax County Code 120-2-1

[https://library.municode.com/va/fairfax\\_county/codes/code\\_of\\_ordinances?nodeId=THCOCOFAVI1976\\_CH120HESPMESTTROR\\_ART2DE\\_S120-2-1D](https://library.municode.com/va/fairfax_county/codes/code_of_ordinances?nodeId=THCOCOFAVI1976_CH120HESPMESTTROR_ART2DE_S120-2-1D). It is also in several other Virginia locality tree ordinances, including Norfolk, VA and Abingdon, VA.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| <del>medium and high density areas of a PRC District</del>                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                          |
| <del>R-12; R-16; PDH-12; PDH-16</del> <u>RS-16 - Single Family Detached Residential</u>                                                                                                                                                                                                                                                                                                                                                                                                      | <del>Fifteen</del> <u>Twenty five</u> percent ( <del>15</del> %)         |
| <del>R-5; R-8; PDH-5; PDH-8</del> <u>RS-12.5 - Single Family Detached Residential</u>                                                                                                                                                                                                                                                                                                                                                                                                        | Twenty <u>five</u> percent (2 <u>0</u> %)                                |
| <del>R-3; R-4; PDH-3; PDH-4</del> <u>RS-10 - Single Family Detached Residential</u>                                                                                                                                                                                                                                                                                                                                                                                                          | Twenty <del>five</del> percent (2 <u>5</u> %)                            |
| <del>R-A; R-C; R-E; R-1; R-2; PDH-1; PDH-2; and low density areas of a PRC District</del> <u>RMU - Residential Multi-Unit Zone</u>                                                                                                                                                                                                                                                                                                                                                           | <del>Thirty</del> <u>Fifteen</u> percent ( <del>30</del> %) <u>15</u> %) |
| <del>Note: In Commercial Revitalization Districts, the above requirements apply to the extent feasible to the expansion or enlargement of existing developments and to redevelopment and new developments. Expansion, enlargement, redevelopment and new development are defined by the Zoning Ordinance. AC - Avenue Center, AE - Avenue East, AW - Avenue West, GS - Gateway South, M - Mill, CP - Corporate Park Districts, T - Transitional, and NM - Neighborhood Mixed-Use Zones</del> | Ten percent (10%)                                                        |

- (b) For purposes of administering the above requirement, land development does not include: construction of additions to existing residential structures; construction of residential accessory structures; demolition of existing residential structures; reconstruction of residential structures on existing foundations; construction associated with minor site plans; construction of trails, sidewalks, sanitary sewers, storm sewers, and other public improvements of a linear nature not included as part of a larger common plan of development; and, other land disturbing activities that present a minor threat to existing tree resources as determined by the Director of Parks and Recreation.

**~~Section 122~~ Sec. 29-3-2-2. Standards for 10-year Tree Canopy Requirements.**

- (a) The ~~10-year~~ tree canopy ~~requirement~~ requirements set forth in Table 1 above may be met through the preservation or planting of trees. However, when existing trees meet standards of health, condition, and suitability, and when it is feasible to preserve those trees within the framework of permissible uses, densities, design standards, and construction practices, all efforts shall first be made to meet the tree canopy requirement through the preservation of trees before tree planting is allowed to meet any portion of the tree canopy requirement.
- (b) Tree canopy credit shall be given to existing areas of trees and forested areas designated to be preserved on plans and comprised of self-supporting and woody plant material exceeding five feet in height at time of plan submission provided that the trees and forested areas meet standards for health, condition, and suitability.
- (c) Any portion of the tree canopy requirement that cannot first be met through the preservation of trees as provided for in ~~§ 122-2~~ 29-3-3 shall be provided through tree planting.
- (d) Tree canopy credits for trees and plant material used to satisfy ~~10~~ 20-year tree canopy requirements shall be determined in accordance with the provisions of ~~the Public Facilities Manual (PFM)~~ Vienna's Tree Preservation and Planting Guide.

**~~Section 122-2~~Sec. 29-3-3. Tree Preservation Requirements.**

- (a) Except as provided for in § ~~122-2~~ 29-3-3(b), the percentage of the development site covered by tree canopy at the time of plan submission shall equate to the minimum portion of the total ~~40~~20-year tree canopy requirement of § ~~122-2~~ 29-3-2(a) that should be met by means of tree preservation. This minimum portion shall be identified in plats and plans as the "tree preservation target."
- (b) Deviations, in whole or part, from the tree preservation target may be requested under the following conditions:
  - 1. Meeting the tree preservation target would prevent the development of uses or densities otherwise allowed by the Town Zoning Ordinance;
  - 2. Meeting the tree preservation target would require the preservation of trees and forested areas that do not meet standards for health, structural condition, and other vegetation and risk management requirements.
  - 3. Construction activities could be reasonably expected to impact existing trees or forested areas used to meet the tree preservation target to the extent they would not likely survive in a healthy and structurally sound manner for a minimum of ~~ten (10)~~twenty (20) years in accordance with the post-development standards for trees and forested areas.
- (c) Deviations from the Tree Preservation Target shall be granted for any of the justifications listed above provided that a written request is submitted and approved by the Director of Parks and Recreation. The request must take the form of a letter addressed to the Director of Parks and Recreation that provides a site-specific narrative explaining why one or more of the conditions allowing a deviation set forth in (b) above should be considered. The narrative must also provide the basis for the deviation, a detailed description of how the deviation is the minimum necessary to afford relief and describe how the balance of the 20-year tree canopy requirements could otherwise be met by means of tree planting.<sup>2</sup>
- (d) The Director of Parks and Recreation may grant additional canopy credits in order to encourage the preservation of forest communities that provide valuable environmental, ecological, and wildlife conservation benefits.
- ~~(e) — The Director may grant additional tree canopy credits in order to encourage developers to preserve trees for official designation as heritage, memorial, specimen and street trees as provided in Chapter 120 (Heritage, Memorial, Specimen and Street Tree Ordinance).~~
- ~~(f)~~(e) All tree and forested areas designated to be preserved on plans shall be protected and managed during all phases of construction.

**~~Section 122-2~~Sec. 29-3-4. Tree Planting Requirements.**

- (a) Tree canopy credit shall be given to areas of planted tree canopy based on the projected ~~40~~20-year tree canopy calculation as set forth in the PFM Vienna's Tree Preservation and Planting Guide, provided that the proposed tree species meets standards established to manage proper levels of biodiversity and the spread of invasive plants, pests, and diseases.
- (b) Tree canopy credits shall be given to tree seedlings, shrubs and woody seed mix planted in large open spaces, low-density residential settings, or in low-impact development projects.

<sup>2</sup> The process for a deviation request is consistent with what is in place in Fairfax County, as set forth in the Fairfax County Land Development Services Technical Bulletin 21-01.

<https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/Assets/Documents/21-01-tech-bulletin-tree-preservation-submission-deviations.pdf>



- (c) Additional tree canopy credits shall be granted for the planting of trees that will provide air quality, energy conservation, water quality, wildlife conservation benefits.
- (d) Additional tree canopy credits shall be granted for the use of native tree species, and the use of cultivars or varieties that develop desirable growth and structural patterns, resist decay organisms and the development of cavities, show high levels of resistance to disease or insect infestations, and exhibit high survival rates in harsh urban environments.
- (e) In order to provide higher levels of biodiversity and to minimize the spread of pests and diseases, or to limit the use of species that cause negative impacts to native plant communities, cause damage to nearby structures, or possess inherent physiological traits that prone trees to structural failure, ~~the PFM designates~~ Vienna's Tree Preservation and Planting Guide may designate trees that cannot be planted to meet tree canopy requirements or that shall only receive partial tree canopy credits.
- (f) All plant materials used to satisfy ~~40~~20-year tree canopy requirements shall be selected, located, handled and installed in accordance with the ~~PFM-~~ Vienna's Tree Preservation and Planting Guide.

**Section 122-2 ~~Sec. 29-3-5. Use of Tree Banking and Tree Preservation and Planting Fund if Tree Canopy Requirement Cannot be Met On-Site.~~**

- (a) Where it can be demonstrated to the satisfaction of the Director of Parks and Recreation that the tree canopy requirements set forth in § ~~122-2~~ 29-3-1 cannot be met on-site, the portion of the requirement that cannot be met on-site may be met through ~~the use of off-site tree banking or through~~ a pro rata payment
  1. Fees collected for these purposes will be based on the cost to establish 20-year Tree Canopy Cover using 2-inch caliper nursery stock tree.
  2. The cost to establish 200 square feet of 20-year Tree Canopy using 2-inch caliper landscape tree will be set at the unit cost for a 1.5-2.0-inch caliper deciduous tree as stated in the current Fairfax County Land Development Services' Comprehensive Unit Price Schedule.<sup>3</sup>
  3. Any funds collected by the Town for these purposes shall be spent within a five-year period established by the collection date, or the Town shall return such funds to the original contributor, or legal successor.<sup>4</sup>

**Section 122-2 ~~Sec. 29-3-6. Exemptions and Modifications.~~**

- (a) The following uses are exempt from the requirements of this ~~C~~hapter: bona fide silvicultural activity as defined by Va. Code Ann. § 10.1-1181.1 and the areas of sites included in lakes, ponds, and the normal water elevation area of stormwater retention facilities.
- (b) Deviations of the overall canopy requirements set forth in § ~~122-2~~ 29-4-1 may be granted by the Director of Parks and Recreation to allow for the preservation of wetlands, the development of farm land or other areas previously devoid of healthy and/or suitable tree canopy, or where the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer.

<sup>3</sup> Fairfax County Public Facilities Manual, 12-0312, <https://online.encodeplus.com/regs/fairfaxcounty-va-pfm/doc-viewer.aspx#secid-583>

<sup>4</sup> A tree planting fund is authorized by the Code of Virginia § 15.2-961.1.G  
<https://law.lis.virginia.gov/vacode/title15.2/chapter9/section15.2-961.1/>

## **ARTICLE 3. ~~Plan Requirements~~ 4. TREE CONSERVATION PLANS**

### **~~Section 122-3~~ Sec. 29-4-1. ~~Submission and Review of Tree conservation plans~~ Conservation Plans.**

#### **(a) Applicability.**

1. Tree conservation plans must be submitted for review and approval by the Director of Parks and Recreation as provided below and in this chapter. Tree conservation plans are 1. — Section 104-1-2 of the Code states that a conservation plan is required of anyone engaging for any of the following located in land disturbing activities in the RS-16, RS-12.5, RS-10, RMU, AC, AE, AW, GS, M, CP, T, and NM zones: the development of an undeveloped tract; the County. 2. — A tree conservation plan shall be required when land disturbing activity requiring a conservation plan involves the removal, preservation or redevelopment of any existing tract by removal of a dwelling and replacement of trees or forested areas with a new dwelling; or the addition to an existing dwelling that results in an area of disturbed soil exceeding 2,500 square feet.

32. Tree conservation plans shall must be submitted for review and approval by the Director of Parks and Recreation as part of all preliminary subdivision plats, construction plans, and grading plans as required by Chapter 101 (Subdivision Ordinance) of the Code. 4. — Tree conservation plans must be submitted as part of all site plans as required by subsection 8101.4 of this Code, and to the extent applicable, Zoning Ordinance. 5. — Tree conservation plans shall be submitted as part of all grading plans for Building Permits on existing lots that are not within a subdivision currently bonded with the Fairfax County Code. County and parcels with lots of 5 acres or more as required by Chapter 104 (Erosion and Sedimentation Control Ordinance) of the Code.

63. A site plan, preliminary subdivision plat, subdivision construction plan, conservation plan, grading plan, or rough grading plan approved by the Director of Parks and Recreation and meeting the requirements contained herein shall constitute an approved tree conservation plan. 7. — Tree conservation plans and associated plans, narratives, calculations, deviations and modifications shall be prepared in accordance with the PFM Vienna's Tree Preservation and Planting Guide.

4. If a tree conservation plan proposes tree removal of off-site or jointly-owned trees because they have critical root zones that extend into the project site and will be encroached on by construction activities causing irreparable damage, a written notice must be sent to the affected adjacent landowner(s) notifying them that tree removal is proposed. The notice shall include a tree conservation plan that shows which trees will be irreparably damaged by the proposed development, and a description of the size, species, and species common name and general location description of the trees and an explanation that the trees have critical root zones that extend into the project site and will be encroached on by construction activities causing irreparable damage. The letter shall explain that 1) the tree(s) are proposed for removal at the developer's expense as part of this proposed development, 2) the designated trees cannot be removed without the property owner's permission, and if the owner chooses to retain the tree(s) despite the severe impacts to the root system, the owner may be responsible for any future corrective measures, including removal. The letter must be sent from the U.S. Postal Service via certified/return receipt, or other service that provides proof of mailing, to all applicable property owners. A copy of the domestic return receipts from the U.S. Postal Service or other proof of mailing of the notification provided with the letters shall be provided with the tree conservation plan submitted to the Town.

5. In all cases, off-site trimming or cutting of trees requires permission of all involved landowners. Notice of intent to remove a tree does not replace a builder's responsibility to secure permission of adjacent landowners for that work.<sup>5</sup>

<sup>5</sup> The process for a proposed removal of offsite or jointly owned trees set forth in Sec. 29-4-1 pars 4 and 5 is consistent with what is in place in Fairfax County, which is set forth in Fairfax County Land Development Services Technical Bulletin 21-11.

<https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/21-11-notification-of-proposed-removal-of-trees.pdf>

- (b) Exceptions to Applicability. A tree conservation plan is not required to be submitted under the following conditions: ~~1. Those exceptions to land disturbing activity as specified in Chapter 104 (Erosion and Sedimentation Control Ordinance) of the Code.~~
- ~~21.~~ For the removal of trees grown and intended to be sold as live trees in the course of business on nursery or dealer properties registered by the Virginia Commissioner of Agriculture and Immigration (Plant Pest Act of 1952). This provision does not supersede the requirement to obtain an approved conservation plan prior to engaging in any other land disturbing activity.
  - ~~32.~~ A tree conservation plan shall not be required to cut down any tree which has become, or threatens to become, a danger to human life or property due to accidental or natural causes or other emergency.
  - ~~43.~~ A tree conservation plan shall not be required for the harvesting of trees on commercial forest land if the operation is conducted in conformance with the Virginia Department of Forestry's Best Management Practices. ~~However, when the State Forester is required to be notified of a timber harvesting operation, the operation shall be conducted pursuant to a forest management plan approved by the Director as provided in Public Facilities Manual § 12-0316. A forest management plan shall not be approved for land for which a commitment with the County, such as a proffered condition, has been made to preserve trees.~~

**Sec. 29-4-2. Monitoring and Inspections; One Year Bonding of New Trees.**

- (a) The planting of any new tree(s) specified on the tree conservation plan shall take place after the completion of construction. The Department of Parks and Recreation shall inspect the trees prior to planting and also inspect the placement and installation of the tree(s). All products and workmanship related to the planting of the tree(s) shall be in accordance with the Town's requirements as set forth in the Town of Vienna Tree Preservation and Planting Guide.<sup>6</sup> A one-year tree protection bond shall be collected by the Town for all new tree(s).<sup>7</sup> The amount of the bond shall be set by the Department of Parks and Recreation based on the current Fairfax County Land Developmental Services unit pricing. If the tree(s) are thriving and in good condition one year from the date of planting the bond shall be returned. Otherwise, the tree(s) shall be replaced.
- (b) The Department of Parks and Recreation shall also inspect all existing trees after completion of construction to determine what damage, if any, has been caused by the stress of construction. The Department of Parks and Recreation shall notify the permit holder in writing if any existing trees no longer qualify for canopy coverage. The letter shall state if mitigation measures are required to use a tree for canopy coverage. The permit holder shall provide an independent arborist's report to justify retaining a damaged tree or to support mitigation measures. Upon notification by the Department of Parks and Recreation that repairs or replacements to an existing tree are to be made, the permit holder shall make the required repairs and replacements and shall notify the Department of Parks and Recreation when the repairs and replacements are complete. The Department of Parks and Recreation shall inspect the repairs

<sup>6</sup> This inspection process is set forth in the City of Falls Church Tree Preservation and Replacement Guide for Development and/or Redevelopment on Single Family Residential Lots, Rev. 5/2019, p. 19. <https://www.fallschurchva.gov/DocumentCenter/View/157/Urban-Forestry-Development-Guidelines?bidId=>

<sup>7</sup> A two-year bond is required for existing trees and a one-year bond is required for new trees by the City of Falls Church, see Code of the City of Falls Church, Sec. 44-136 [Sec. 44-136. - Purpose and amount of bond.](#) and City of Falls Church Tree Preservation and Replacement Guide for Development and/or Redevelopment on Single Family Residential Lots, Rev. 5/2019, p. 25 (new trees), p. 26 (existing trees) <https://www.fallschurchva.gov/DocumentCenter/View/157/Urban-Forestry-Development-Guidelines?bidId=> This ordinance proposes a one-year bond for new trees.

and replacements and notify the owner when they have been satisfactorily performed.<sup>8</sup>

## ~~ARTICLE 6~~ARTICLE 5. Satisfying Tree Conservation Requirements.

### ~~Section 122-6-1~~Sec. 29-5-1. Satisfying Tree Conservation Requirements.

- (a) Approval of a tree conservation plan meeting the requirements of this chapter and subsequent release of all agreements and securities related to the tree conservation plan shall be deemed to satisfy tree conservation requirements except those tree conservation requirements stemming from proffered condition, development plan, conceptual/final development plan, special exception, special permit or variance approvals.
- (b) When required tree canopy is located on individual residential lots, the property owner shall not be precluded from adding, removing, or relocating tree canopy provided that the developer has been released from all agreements and securities related to the landscape plan and the landscaping is not required as part of proffered condition, development plan, conceptual/final development plan, special exception, special permit or variance approvals.

## ~~ARTICLE 5. Violations and Penalties.~~ARTICLE 6. INSPECTIONS, VIOLATIONS AND PENALTIES

### ~~Section 122-4-1. Monitoring and Inspections.~~Sec. 29-6-1. Inspections

- (a) The Director of Parks and Recreation shall provide for periodic inspections of tree conservation activities in accordance with Public Facilities Manual § 12-0500 Standards for Field Practices, and Chapter 104 (Erosion and Sedimentation Control Ordinance) of the Code~~this Article and Vienna's Tree Preservation and Planting Guide.~~

### ~~Section 122-5-1. Sec. 29-6-2. Constitution and Processing of Violations.~~

- (a) Any land disturbing activity and any removal of vegetation contrary to any of the provisions of this ~~Chapter~~ shall constitute a violation.
- (b) Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this ~~Chapter~~, or permits any such violation, or fails to comply with any of the requirements hereof; or any professional, ~~as defined in 18 VAC 10-20-10,~~ or Certified Arborist or Registered Consulting Arborist, ~~as defined in PFM Section 12-0307.2G,~~ who directs or causes another person to violate any provision of this ~~Chapter~~, shall be subject to the enforcement provisions of this Article.
- (c) Upon becoming aware of any violation of any provision of this ~~Chapter~~, the Director of Parks and Recreation shall serve a notice of violation on the property owner, professional, or any other person committing or permitting the violation, either in person or by registered or certified mail. Such notice shall specify the provisions of the ~~Chapter~~ which have been violated, the measures needed to remedy the violation, and a reasonable time in which to remedy the violations. Failure to take steps to comply with such notice within the time provided for therein shall constitute a separate violation of this ~~Chapter~~.
- (d) The Director of Parks and Recreation, on behalf of the ~~Board of Supervisors~~Town Council, may apply to the Fairfax County Circuit Court for injunctive relief to enjoin a violation or a threatened violation of any provision of this ~~Chapter~~.

### ~~Section 122-5-2~~ Sec. 29-6-3. Replacement ~~of~~Trees and/or ~~of~~Vegetation.

- (a) Land disturbing activities involving tree removal without an approved tree conservation plan.
  1. A tree conservation plan shall be submitted for approval by the Director of Parks and

<sup>8</sup> This post-construction inspection process is consistent with what is set forth in the Code of the City of Falls Church, Sec. 44-139(b),  
[https://library.municode.com/va/falls\\_church/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH44VE\\_ARTIITRSH\\_DIV5TRPRMAAGBO\\_S44-139PRADBOTEBO](https://library.municode.com/va/falls_church/codes/code_of_ordinances?nodeId=PTIICOOR_CH44VE_ARTIITRSH_DIV5TRPRMAAGBO_S44-139PRADBOTEBO)



Recreation when a violation is issued for land disturbing activity involving tree clearing without an approved plan ~~in accordance with the Erosion and Sedimentation Control Ordinance.~~

2. Replacement trees and/or other vegetation may be required by the Director of Parks and Recreation according to the guidelines set forth in ~~Public Facilities Manual~~ this Article and Vienna's Tree Preservation and Planting Guide.

(b) Land disturbing activity conducted in violation of an approved tree conservation plan.

1. A revision to the approved tree conservation plan may be required by the Director of Parks and Recreation when land disturbing activities are conducted, without prior approval of the Director of Parks and Recreation, in areas outside the limits of clearing and grading shown on the approved plan resulting in the removal or damage to trees or forested areas designated to be preserved on such plan.
2. Replacement trees and/or other vegetation may be required by the Director of Parks and Recreation according to the guidelines set forth in ~~the Public Facilities Manual.~~ this Article and Vienna's Tree Preservation and Planting Guide.

#### **Section 122-5-3. Sec. 29-6-4. Criminal Violations and Penalties.**

- (a) Any violation of the provisions of this ~~O~~rdinance shall be deemed a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$10 and not more than \$1000. Failure to remove or abate a violation within the time period established by the Court shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1000, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than \$100 nor more than \$1500.
- (b) The remedy provided for in this Section is in addition to any other remedies provided by law ~~including, but not limited to, violations of Chapters 101 (Subdivision Ordinance), 104 (Erosion and Sedimentation Control Ordinance), 112.1 (Zoning Ordinance), and 118 (Chesapeake Bay Preservation Ordinance) of the Code,~~ however, the designation of a particular violation of this ~~O~~rdinance for a civil penalty precludes criminal prosecution or sanction, except for any infraction that results in civil penalties that total \$5,000 or more.

#### **Section 122-4. Sec. 29-6-5. Infractions and Civil Penalties.**

- (a) A violation of any provision of this ~~O~~rdinance shall be deemed an infraction and shall be punishable by a civil penalty of \$200 for the first violation; and subsequent violations arising from the same set of operative facts shall be punishable by a civil penalty of \$500 for each separate offense.
- (b) Each day during which any violation is found to have existed shall constitute a separate offense. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties which exceed a total of \$5,000.
- (c) The designation of a particular violation as an infraction pursuant to Paragraph (a) above shall be in lieu of criminal sanctions, and such designation shall preclude the prosecution of a violation as a criminal misdemeanor unless such violation results in injury to any person or persons or the civil penalties under Paragraph (a) above total \$5,000 or more for such violation. If the civil penalties for a violation under Paragraph (a) above total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.
- (d) After a notice of violation has been served on any person who violates this ~~O~~rdinance, if the violation has not ceased within the reasonable time specified in the notice, then, upon the approval of the ~~CountyTown~~ Attorney, the Director of Parks and Recreation shall serve a summons upon such person.
- (e) Such summons shall contain the following information:
  1. The name and address of the person charged.

2. The nature of the infraction and the ~~Ordinance~~ provision(s) being violated.
  3. The location, date and time that the infraction occurred or was observed.
  4. The amount of the civil penalty assessed for the infraction.
  5. The manner, location and time in which the civil penalty may be paid to the ~~County~~ Town.
  6. The right of the recipient of the summons to elect to stand trial for the infraction and the date for such trial.
- (f) The summons shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the ~~Department~~ Director of Finance at least 72 hours before the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court; however, an admission shall not be deemed a criminal conviction for any purpose.
- (g) If a person charged with a violation does not elect to waive trial and admit liability, the violation shall be tried in the General District Court in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.
- (h) The remedies provided for in this Section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

#### ~~Section 122-7-1. Appeals.~~ ARTICLE 7. APPEALS

Any applicant aggrieved by a decision of the Director of Parks and Recreation in the administration of this ~~C~~chapter has the right to petition the Director of Parks and Recreation for reconsideration of the decision, provided such request is made in writing within fifteen (15) days of the date of the ~~Director's~~ Director of Parks and Recreation's written decision.

#### ARTICLE 8. VIENNA TREE COMMISSION

~~ARTICLE 9. Section 122~~ Sec. 29-8-1. Definitions. Tree Commission Purpose-

##### ~~Section 122-9-1. Tree Commission.~~

(a) ~~\_\_\_\_\_ Purpose. The purpose of the Tree Commission is to provide advice to the Board of Supervisors, based on an annual reevaluation of the administration and implementation of the provisions set forth in this Ordinance and the landscaping and screening requirements contained in the Zoning Ordinance; to provide leadership in developing an understanding of the objectives and methods of tree conservation; and to assist the Urban Forest Management Division of the Department of Public Works and Environmental Services and Land Development Services in the development and maintenance of technical specifications and guidelines.~~

(b) ~~\_\_\_\_\_ Authority and Establishment.~~

1. ~~\_\_\_\_\_ The Tree Commission was established in conformance with an action adopted by the Board of Supervisors on June 18, 1973 and amended on July 30, 1973, which action became effective on August 1, 1973. 2. The official title of this commission is the 'Fairfax County Tree Commission'. (c)~~

There is hereby created and established a commission to be known as the Vienna Tree Commission, which shall advise and assist Town Council and Town Staff on matters relating to the conservation and management of the Town's trees and tree canopy and assist the Town in the development and maintenance of specifications and guidelines related to the same.

#### Sec. 29-8-2. Tree Commission Membership.

1. ~~\_\_\_\_\_ The Board of Supervisors appoints the Tree Commission members. The Tree Commission may have no more than fifteen (15) members of the following composition: ten (10) citizens of the County chosen for their knowledge and experience in the field of arboriculture or related fields and one representative from each of the following: Fairfax County Environmental Quality Advisory Council, Northern Virginia Soil and Water Conservation District, Fairfax County Park Authority, Fairfax County Office of Virginia Cooperative~~

~~Extension and Virginia Department of Forestry.~~

~~2. — Citizen members of the Commission are appointed to serve for a three (3) year term or until their successor has been appointed. An appointed successor to a vacancy serves only the unexpired portion of the term. Members may be reappointed to successive terms.~~

~~3. — If a member is absent for three (3) consecutive meetings without sufficient cause, a letter will be sent to the Chairman of the Board of Supervisors asking for replacement of that member.~~

~~4. — The removal or resignation or withdrawal of any or all members of the Tree Commission does not result in the dissolution of the Tree Commission.~~

~~(d) — Officers.~~

~~1. — The Tree Commission must have a Chairperson and Vice Chairperson and such other officers that the Tree Commission elects from time to time.~~

~~2. — Officers of the Tree Commission are to be elected once each year or when an officer withdraws from his post. An annual election meeting will be held as soon as appropriate after regular annual appointments are made.~~

~~3. — The duties of the officers will be in general those defined in Robert's Rules of Order, modified as required to fit the purpose of the Tree Commission.~~

~~(e) — Meetings.~~

~~1. — Meetings of the Tree Commission are scheduled by the Chairperson, as needed, or upon the request of three (3) or more members. Meetings are held at a time and place to be designated by the Chairperson.~~

~~2. — Robert's Rules of Order govern proceedings of the Tree Commission.~~

~~(f) — Records. The Tree Commission must keep records of all its proceedings, and the records must be made available for public inspection upon request.~~

~~(g) — The commission shall consist of seven members, all of whom shall be appointed by Town Council. At least one member shall be selected from the Conservation and Sustainability Commission. In addition, a Town representative(s) from the Departments of Parks and Recreation and/or Planning and Zoning shall serve as an ex-officio member(s) of the commission. Except for the Town representative(s), all appointees shall be either residents of the Town or representatives of businesses or professions located in and licensed by the Town. No more than two nonresidents of the Town shall serve on the Tree Commission. In making all appointments to the commission, Town Council shall give consideration to persons who have evidenced an interest or expertise in tree conservation and tree policy.~~

### **Sec. 29-8-3. Tree Commission Term of Members.**

The term of all members shall be for two years. Initially, four members of the board shall be appointed for a term of one year and three members shall be appointed for a term of two years. Thereafter, all appointments to the commission, except for those to fill an unexpired term, shall be for a period of two years. All members shall serve without compensation. Vacancies occurring on the commission for reasons other than the expiration of terms shall be filled by Town Council for the remainder of the unexpired term. Members shall be eligible for reappointment. Members may be removed from the commission by a majority vote of Town Council.

### **Sec. 29-8-4. Tree Commission Powers and Duties.**

~~1.(a) The Tree Commission has~~commission shall have the power~~following powers and duties:~~

1. To recommend rules, regulations, policies and programs to do any lawful acts~~the Town Council and Town staff relating to tree conservation and management, the care and improvement of the Town's urban forest, and protecting and enhancing the Town's tree canopy.~~

2. To advise and assist the Town Council and Town staff regarding the planting, protection, maintenance, preservation, and removal of trees, shrubs, and other plants located on public property within the

Town.

3. To advise and assist the Town Arborist to ensure that the planting, maintenance, pruning, and removal of trees and shrubs on public property within the Town are done in accordance with current accepted standards.
  4. To help develop, maintain, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or things reasonably disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be reviewed annually, updated as necessary to carry out its purposes-, and presented to Town Council; upon acceptance and approval by Town Council, such plan shall constitute the official public tree management plan for the Town
  5. To assist the Town with compiling and analyzing data to measure the Town's progress in restoring the Town's tree canopy.
  6. To attend and bring back knowledge and information from nearby and online meetings, seminars, and conferences concerning urban forestry.
  7. To undertake an ongoing program of public outreach and education in order to promote public understanding and support of the Town's public tree management plan and to increase public awareness of the value and benefits of a diversified, sustainable community forest.
  8. To work with Town staff to compile, publish, and update annually information and statistics regarding the Town's efforts with regard to trees, including a) the amount spent each year by the Town for the purchase and planting of trees, b) the number of trees planted on Town property each year, c) the number of trees on Town property cut down or removed, d) any available data regarding the extent of or changes to the Town's tree canopy, and e) any available data regarding an inventory of the Town's street trees, such as the percentage of street tree planting sites that are filled, and priority street tree planting sites that are unfilled. The commission shall present a report to Town Council each year that includes a description of the commission's activities, key data and statistics, and ongoing and anticipated future activities.
- (b) Town Council shall have the right to review the conduct, acts, and decisions of the Town tree commission. Further, the tree commission, when requested by Town Council, shall consider, investigate, make findings, report on, and recommend any special matter or question coming within the scope of its work.
- ~~2. The Tree Commission develops and disseminates technical information for professional groups, developers, and citizens, and strives to inform the general public of the provisions of this Ordinance and the landscaping and screening requirements contained in the Zoning Ordinance.~~
- ~~3. The Tree Commission assists the Urban Forest Management Division in the development and maintenance of the landscaping and screening requirements contained in the Zoning Ordinance, and the policies, standards and guidelines in the Vegetation Preservation and Planting section of the Public Facilities Manual and other related documents, which will provide guidance for persons involved in planting, preserving, protecting or replacing trees.~~
- ~~4. The Tree Commission presents an annual report to the County Executive and Board of Supervisors that includes:~~
- ~~A. A description of activities conducted.~~
  - ~~B. A report of ongoing and anticipated activities.~~
  - ~~C. An evaluation of the experience of the administration and implementation of the provisions set forth in this Ordinance and the landscaping and screening requirements contained in the Zoning Ordinance including: an appraisal of the strength and comprehensiveness of the provisions; recommendations to improve implementation; and judgment as to how it is being interpreted by the public and by those affected by the requirements of these provisions.~~
- ~~5. The Tree Commission will be provided working facilities by the County Executive. Where required,~~



~~the Tree Commission will be provided with assistance from other County agencies.~~

~~6. The Tree Commission may divide itself into ad hoc committees as the Chairperson may direct or the Tree Commission may resolve, and those ad hoc committees may acquire additional assistance from any sources as required to perform assignments so long as they are consistent with the provisions of this Ordinance and the landscaping and screening requirements contained in the Zoning Ordinance.~~

~~7. The Tree Commission may enact bylaws as may be required to aid in its efficient operation.~~

## **ARTICLE 9 TOWN TREE REPORT**

### **Sec. 29-9-1. Annual Tree Report.**

- (a) The Town shall compile, publish, and update annually information and statistics regarding the Town's efforts with regard to trees, including a) the amount spent each year by the Town for the purchase and planting of trees, b) the number of trees planted on Town property each year, c) the number of trees on Town property cut down or removed, d) any available data regarding the extent of or changes to the Town's tree canopy, and e) any available data regarding an inventory of the Town's street trees, such as the percentage of street tree planting sites that are filled, and priority street tree planting sites that are unfilled.
- (b) The information and reporting described in (a) above shall be published each year, including on the Town website.

Good evening. I am Brian Land. I live at 504 Ridge Rd SW in Vienna.

Back in 2019, I pitched an idea to the Town of Vienna. I noted that, with the new home construction in town, the town was losing its mature trees. I suggested a project to interview other communities to learn how Vienna might make use of other communities' lessons learned and advice, in order to do a better job managing and preserving trees in Vienna.

The Town approved the project in 2020. My law firm, Kirkland & Ellis, agreed to allow me to conduct the project on a pro bono basis (free of charge to the Town). We worked with Christina Caplan, chair of Vienna's Conservation and Sustainability Commission, who helped with the project and co-authored the report.

As part of the project, 1) we interviewed more than 50 individuals, including tree policy experts, 2) we reviewed Vienna's tree laws, 3) we reviewed tree laws in other Northern Virginia communities and 4) we reviewed tree studies that had been prepared for other cities and counties.

From our interviews and research, we learned the substantial benefits trees provide to communities, including Vienna. In particular, trees provide benefits to Vienna of **\$4.3 million** each year in terms of carbon storage, stormwater absorption, removal of air pollutants, and other benefits.

That was the good news. The not-so-good news is we learned that Vienna is losing its tree canopy. Vienna experienced a 13% decrease in its tree canopy in the 10-years from 2011 to 2021, and some areas in Vienna had a decrease of more than 30% of its tree canopy during that 10-year period.

In October 2022, we delivered our tree report to the Town. The report has 12 principal recommendations. The first recommendation is that trees should be prioritized as critical community infrastructure in Vienna. Much like buildings, streets, and sewer lines, trees are part of the infrastructure that improves our quality of life. Trees provide Vienna with significant environmental, health, safety, and economic benefits.

The second is that to preserve existing trees, Vienna should update Vienna's existing tree replacement ordinance by adopting a tree conservation ordinance, which is authorized under Virginia Code Section 15.2-961.1 and is in place in Fairfax County.

Fairfax County adopted the tree conservation ordinance in 1990. Vienna, however, has never had a tree conservation ordinance. Vienna's tree replacement ordinance specifies that trees must be planted or exist at the time of occupancy to meet a certain canopy projection 20 years after the site development. But Vienna's tree replacement ordinance does not require any effort be made to preserve existing trees. It allows lots to be completely clear cut of the existing trees.

Fairfax County's tree conservation ordinance requires tree canopy projections to be met, either through the preservation or replacement of trees. However, when existing trees meet standards of health, condition, and suitability, and when it is feasible to preserve those trees, the tree conservation ordinance specifies that ***"all efforts shall first be made to meet the tree canopy requirement through the preservation of trees before tree planting."*** That is the key distinction between Vienna's tree replacement ordinance and Fairfax County's tree conservation ordinance. The tree conservation ordinance requires efforts be made to preserve trees.

You have before you two approaches for updating Vienna's tree ordinance. Option A would establish a new Chapter in the Town Code that would set forth Vienna's Tree Ordinance. Option B would make changes to Chapters 17, 18, and 27 of the Town Code.

I recommend that Vienna adopt Option A. You may have seen this table that compares 15 aspects of Option A and Option B. Given the limited time, I am only going to talk about a couple items, which are the first two items in the table.

**Item 1 is Where Should Vienna's Tree Ordinance be Placed in the Town Code?** My recommendation is that the Tree ordinance should have its own Chapter in the Town Code. Why? First, placing the Tree Ordinance in its own Chapter will make it clear that the Tree Ordinance intended to apply to all property development. Placing the tree conservation ordinance in Chapter 17 – Subdivisions, suggests the tree ordinance is applicable only to the division of land parcels. Placing the tree ordinance in its own chapter of the Town Code remedies this concern.

Second, placing the tree ordinance in its own chapter of the Town Code will make the tree ordinance easier to locate, read, and understand. It will also convey the importance of trees in Vienna.

And third, other jurisdictions place their tree ordinance in its own chapter: Fairfax's County Tree Conservation Ordinance is Chapter 122 of the Fairfax County Code; Arlington County's Tree Preservation Ordinance is Chapter 67 of the Arlington Code; and the City of Falls Church's Trees and Shrubs Ordinance is Chapter 44 of the Falls Church Code. It is sensible for Vienna to take a similar approach and have a New Chapter of the Town Code, Chapter 29, that will set forth Vienna's Tree Ordinance.

**Item 2: Should Vienna's Tree Ordinance be based on Fairfax County's Tree Conservation Ordinance?**

The Option A ordinance is based on, and closely matches, Fairfax County's Tree Conservation Ordinance. Why is that sensible?

1. Convenience for homebuilders. Vienna is located in Fairfax County. Many or most of the Vienna homebuilders also build in Fairfax County. Having a similar ordinance in Vienna will make it easier for the builders to understand and abide by the ordinance. When we interviewed builders, they talked about the challenges of having to follow different tree requirements among jurisdictions.
2. Fairfax County's tree conservation ordinance has a long track record. The ordinance became effective in 1990 – more than 33 years ago. We met with Paul Emerick, a Senior Attorney at Fairfax County, and he explained that no one has ever sued Fairfax County to challenge the tree ordinance and that no one has otherwise challenged it.
3. Individuals we interviewed explained that Fairfax County is considered to be the jurisdiction that is the leader in tree conservation in Virginia. One arborist we spoke to explained that Fairfax County is "using all the tools available" to conserve trees. Accordingly, there is a benefit to Vienna in making use of Fairfax County's experience in this area.

One last thing. At Monday's Town Council meeting, Councilmember Somers said he opposed Option A because he was concerned that Option A contains provisions that the

Town cannot legally do. I disagree with that. **Everything that is in Option A is taken from provisions that are currently in place in Fairfax County or the City of Falls Church.** They are not things the Town cannot do. I have a blackline of Option A that shows a comparison with Fairfax County's Tree Conservation Ordinance, and footnotes that show the source of provisions adopted from the City of Falls Church.

Similar to how Vienna is updating and improving the organization of its Zoning and Subdivision Ordinance through the Code Create process, this is an opportunity for Vienna to update Vienna's tree ordinance by adopting a tree conservation ordinance to be placed in Chapter 29 of the Vienna Code. I encourage the planning commission to consider and recommend Option A be adopted by Vienna Town Council.

Thank you.



You have before you two approaches for updating Vienna's tree ordinance. Option A would establish a new Chapter in the Town Code that would set forth Vienna's Tree Ordinance. Option B would make changes to Chapters 17, 18, and 27 of the Town Code.

I recommend that Vienna adopt Option A. You may have seen this table that compares 15 aspects of Option A and Option B. Given the limited time, I am only going to talk about a couple items, which are the first two items in the table.

**Item 1 is Where Should Vienna's Tree Ordinance be Placed in the Town Code?** My recommendation is that the Tree ordinance should have its own Chapter in the Town Code. Why? First, placing the Tree Ordinance in its own Chapter will make it clear that the Tree Ordinance intended to apply to all property development. Placing the tree conservation ordinance in Chapter 17 – Subdivisions, suggests the tree ordinance is applicable only to the division of land parcels. Placing the tree ordinance in its own chapter of the Town Code remedies this concern.

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**Item 2: Should Vienna's Tree Ordinance be based on Fairfax County's Tree Conservation Ordinance?**

The Option A ordinance is based on, and closely matches, Fairfax County's Tree Conservation Ordinance. Why is that sensible?

1. Convenience for homebuilders. Vienna is located in Fairfax County. Many or most of the Vienna homebuilders also build in Fairfax County. Having a similar ordinance in Vienna will make it easier for the builders to understand and abide by the ordinance. When we interviewed builders, they talked about the challenges of having to follow different tree requirements among jurisdictions.
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Town cannot legally do. I disagree with that. **Everything that is in Option A is taken from provisions that are currently in place in Fairfax County or the City of Falls Church.** They are not things the Town cannot do. I have a blackline of Option A that shows a comparison with Fairfax County's Tree Conservation Ordinance, and footnotes that show the source of provisions adopted from the City of Falls Church.

Similar to how Vienna is updating and improving the organization of its Zoning and Subdivision Ordinance through the Code Create process, this is an opportunity for Vienna to update Vienna's tree ordinance by adopting a tree conservation ordinance to be placed in Chapter 29 of the Vienna Code. I encourage the planning commission to consider and recommend Option A be adopted by Vienna Town Council.

Thank you.

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**From:** Christina Caplan <[caplanchristina@yahoo.com](mailto:caplanchristina@yahoo.com)>

pg 70

**Sent:** Tuesday, October 10, 2023 1:35 PM

**To:** Levy, David <[David.Levy@viennava.gov](mailto:David.Levy@viennava.gov)>; Plowgian, Jessica <[Jessica.Plowgian@viennava.gov](mailto:Jessica.Plowgian@viennava.gov)>

**Subject:** CSC comments

***CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.***

Hi David and Jessica,

I'd like to submit brief written comments that mirror what I presented earlier to the Planning Commission before the comment period closes. Can you confirm that it closes tomorrow October 11? I'm not able to attend the meeting tomorrow, but happy to talk with either of you before then if needed.

Thanks,

Christina

\*\*\* VIRGINIA FREEDOM OF INFORMATION NOTICE \*\*\*

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Town of Vienna, Virginia

Website: <http://www.viennava.gov>

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Twitter: <http://www.twitter.com/TownofViennaVA>

## **BACKGROUND FOR 9/8/23 PLANNING COMMISSION MEETING**

Hello. I am Christina Caplan. I have been on the Conservation and Sustainability Commission for the past 7 years and Chair for the past 3 years. I am here to provide some background information on the tree ordinances that have been proposed to Town Council and are currently before the Planning Commission for review.

### **PRO BONO STUDY/REPORT**

2019 – Brian Land approached CSC with idea of pro bono project to figure out how to stop the clearcutting on redeveloped lots in town

Tree preservation has been an issue for CSC for years, particularly with respect to infill lots, so we were happy to team up

Took about a year of working to get a proposal approved by Town Council

Sept. 2020 – Town Council approved pro bono project to be conducted by Kirkland & Ellis (law firm), Ramboll Consulting (environmental firm), and CSC

Project involved

- interviews with more than 50 stakeholders and tree experts
- research and analysis of regulations, policies, and programs in other jurisdictions (federal, state, and local)
- review of tree reports prepared for other communities

Culminated in lengthy report released in October 2022 outlining our findings and recommendations to help Vienna preserve and manage its tree canopy

Recommendations included:

- Prioritizing trees as critical community infrastructure
- Strengthening and consolidating Town Code provisions relating to trees into one single tree ordinance
- Establishing a Vienna Tree Commission
- Increasing tree planting on Town property
- Establishing a budget specifically for tree planting



- Increasing awareness of the environmental, health, safety and economic benefits of trees
- Compiling and analyzing data on trees in Vienna, including UTC assessment (with ecosystem benefits and planting map) and street tree inventory
- Conducting early arborist review of new construction projects
- Providing incentives for builders to conserve trees during the construction process
- Requiring bonding for preserved and newly planted trees on redeveloped lots (*Vienna now only collects bonds for Town street trees that may be impacted by new construction; Town Code (17-15T and 18-252E) seems to allow collection of Tree Protection Bonds with certifications for any trees designated to be preserved on a site plan for both subdivisions and single lots*)
- Limiting paving of front yards to allow space for trees
- Establishing a nonprofit Vienna Tree Foundation that can receive grants and donations and can plant trees on private property
- Enlisting resident volunteers to nurture newly planted town trees
- Expanding Arbor Day into a group tree planting day throughout the town

Brian and I presented report to Town Council in May 2023 and since then have spoken at several other Town Council meetings about tree issues.

## CURRENT ORDINANCE

The reason we are here tonight is to move ahead with one of the main recommendations in our report, which is to adopt a tree preservation ordinance for the Town

Under VA State Code, localities are authorized to adopt tree ordinances under two sections.

- Section 15.2-961 allows localities to adopt a tree **replacement** ordinance
- Section 15.2-961.1 allows localities in Planning District 8 (which includes Vienna) that are in nonattainment for ozone to adopt a tree **conservation** ordinance

Vienna currently has a **tree replacement ordinance**.

It was adopted in 1991 and originally applicable only to new subdivisions.

In 2014, at the urging of the CSC, the tree replacement ordinance was extended to single lot development/ redevelopments.

Vienna's current tree replacement ordinance has a **20% in 20 years** requirement: Builders are required to submit a plan for planting and replacement of trees on site during development so that, at 20 years in the future, the lot will be covered by a minimum of 20% tree canopy in RS-16, RS-12.5, and RS-10 zones.

Vienna's ordinance allows existing trees to be preserved to meet all or part of the tree canopy requirements, but **there is no requirement to preserve or make an effort to preserve existing trees.**

Because Vienna is in Planning District 8, the Town is authorized **under 15.2-961.1** to adopt a **tree conservation ordinance**

Tree conservation ordinances are structured differently than replacement ordinances and offer additional tools to protect canopy.

1. They allow minimum tree canopy requirements to be met through the preservation or replacement of trees but **require preservation attempts first** when existing trees meet standards of health, condition, and suitability, and when it is feasible to preserve those trees. ("all efforts shall first be made to meet the tree canopy requirement through the **preservation of trees** before tree planting.")
2. They require **tree preservation targets** to be set based on the percentage of the site covered by tree canopy at the time of plan submission. Targets equal the minimum portion of the applicable canopy requirement that must be met through tree preservation.
3. They set **5-10% higher minimum tree canopy requirements based on units per acre** (25% for residential sites zoned 3-4 units per acre and 30% for residential sites zoned 1-2 units per acre). Means some residential lots in Vienna (**RS-16, RS-12.5**) would have a **25% tree canopy in 20 years** requirement, rather than the current 20% in 20 years.
4. They allow for **deviations from both the tree preservation target and the minimum tree canopy requirements** under certain conditions:

- **Preservation Target:** Deviations are allowed if (1) target would prevent allowed zoning uses and densities; (2) vegetation does not meet local standards for health and structural condition; (3) construction impact on health and structural condition of trees.
  - Developers must request deviation in writing and describe how minimum tree canopy requirements will be met through tree planting or a tree canopy bank or fund.
  - **Minimum canopy:** Deviations are allowed (1) for preservation of wetlands; (2) for development of farm land; and (3) if requirements would result in unnecessary or unreasonable hardship to the developer.
5. They require establishment of a **tree canopy bank OR fund** whereby any portion of tree canopy requirements that cannot be met on-site may be met through off-site tree preservation or tree planting efforts. *Developers must demonstrate that: requirements would cause irresolvable conflicts with local site development requirements, standards, or comprehensive planning goals; sites lack sufficient space for future tree growth; planting spaces will not provide adequate space for healthy root development; trees will cause unavoidable conflicts with underground or overhead utilities; or trees are likely to cause damage to public infrastructure*
- Tree canopy funds may be used for planting on public property or may be disbursed to nonprofit tree planting groups.

## PROPOSED ORDINANCE

As part of pro bono report, we developed a model tree ordinance that includes a tree preservation ordinance instead of Vienna's current tree replacement ordinance.

The tree preservation ordinance in the report is based on Fairfax County's preservation ordinance, which has been in place since 1990 and successfully implemented.

Throughout our interviews for the project, many people recommended that we look to Fairfax County as a model for tree preservation because it is using every tool available in the tree toolbox – legislative and program-wise.

Many interviewees recommended that Vienna model its tree policies on Fairfax County and use its similar authority under state law to adopt a tree preservation ordinance in lieu of a replacement ordinance.

The preservation ordinance proposed is therefore very similar to that of Fairfax County, with some differences and modifications that are now up for discussion.

For example, Fairfax County is authorized to adopt a 10-year canopy requirement because of when its ordinance was adopted, whereas Vienna can only adopt a 20-year requirement.

Some provisions in the proposed ordinance are found in Fairfax County's Public Facilities Manual, rather than the ordinance itself.

The bonding requirements are not in the Fairfax County ordinance but are based on those in Falls Church's ordinance.

I also want to point out that the proposed preservation ordinance is structured as a stand-alone ordinance, rather than as part of the Subdivision and Zoning Code sections in the Town Code.

This was done intentionally. Other jurisdictions we looked at have stand-alone tree ordinances, which can be easily amended or added to (for example, if Vienna were to adopt a heritage tree ordinance at some point in the future). It also makes tree-related requirements easy to find, although obviously it would require references to the tree ordinance in zoning code sections setting forth requirements for subdivision and single lot development.

## **TREE BOARD/COMMISSION**

Finally, the proposed ordinance also includes a section establishing a new Tree Commission.

The CSC supports having a separate entity focused solely on trees, although the exact structure is up for discussion.



We currently constitute the Town's Tree Board under Section 27-5 of the Town Code. Our efforts have been focused on education and policy, but we have had "legislative wins" in the past.

- Spearheaded extension of tree canopy replacement ordinance from subdivisions only to single lot redevelopment
- Helped update Tree Planting and Preservation Guide by making the tree list all native
- Educate residents about trees through articles in the Vienna Voice, the annual Green Expo, and weekly Green Tips
- Conducted seedling giveaways for past 2 years
- Help Vienna celebrate Arbor Day and meet its Tree City USA certification

That said, we have a broad mission covering many issues – energy, water, trash, recycling, composting, native plants – and more issues crop up each year (light, noise, leaf mulch) so our bandwidth is limited.

We support having a separate entity with additional resident volunteers – whether a subcommittee or separate commission – focused solely on trees. They could

- Expand on CSC initiatives
- Find funding and grants for planting
- Work with town staff to help with increasing planting, data gathering, and education
- Implement the 100+ recommendations in the pro bono report

I see benefits to both proposed structures for a tree board or commission, but I would request that whichever is chosen, CSC members be included to ensure communication and coordination and draw on existing expertise and interest.

**REMARKS: 9/27/23 PLANNING COMMISSION PUBLIC HEARING**

My name is Christina Caplan and I am Chair of Vienna's Conservation and Sustainability Commission (CSC). I presented background on the tree preservation ordinance at your meeting 2 weeks ago. I am speaking at tonight's public hearing as both CSC Chair and a Vienna resident.

I have 2 main points to make.

First, I fully support adopting a tree preservation ordinance that is authorized under Virginia State Code. I am a lawyer, as is Brian Land, and we both understand and adhere to the need to operate within the bounds of the applicable legal framework.

For Vienna, that means the Dillon Rule applies, so anything the Town adopts must be based on powers that are (1) expressly granted by the state; (2) necessarily or fairly implied from powers that are expressly granted; or (3) essential to accomplishing the purposes of the locality.

Both versions of the tree preservation ordinance that have been presented for review have been carefully vetted to ensure they are authorized by state law. The Town Attorney's version adheres strictly to what is in the authorizing statute (known as Section 15.2-961.1). The more "aspirational" ordinance (aka the Brian Land version) extends beyond 961.1 but is based on what has been adopted by other jurisdictions like Fairfax County and Falls Church.

Concerns about authority for specific provisions in the extended ordinance – for example, bonding requirements and technical details – are warranted but easily remedied.

The technical language may very well belong in the Town's Tree Planting and Preservation Guide rather than in the ordinance itself, similar to how Fairfax County operates. As an administrative lawyer, this to me makes good sense.

Bonding requirements in other jurisdictions are based on the Chesapeake Bay Preservation Act and the state's subdivision code. They also appear to be authorized by the Vienna Town Code itself under Sections 17-15T and 18-

252E. These sections allow collection of Tree Protection Bonds with certifications for any trees designated to be preserved on a site plan for both subdivisions and single lot redevelopment.

As the Town Attorney noted on Monday night, there may also be *implied* authority for certain provisions in the ordinance.

My second point goes to process. The purpose of public hearings by the Planning Commission AND by Town Council is to ensure discussion and debate on proposals that matter to Vienna residents.

This requires members of both bodies to listen, read, analyze, ask questions, and then work to develop an ordinance that Town Council is comfortable with and has clear authority to enact. For the tree ordinance, both bodies should:

- Review staff memos that lay out issues and decisions to be made.
- Understand the Town Attorney's valid concerns about ensuring legality of any ordinance that is adopted.
- Listen to residents' concerns about decreasing tree canopy as each old house is torn down along with every mature tree on the lot.
- Read the reports from contractors *hired by the Town* that provide data to back up what people are seeing and saying and that even quantify some of the economic value of Vienna's tree canopy.

This is the reasonable and responsible approach to adopting a tree ordinance.

Refusing to hold a public hearing on an issue already referred to the Planning Commission is counterproductive and derails an established process. I hope that the Planning Commission's public hearing tonight can remedy some of the damage done by Town Council on Monday night. Work and thought needs to be put in by all Council and Commission members to get the process back on track and adopt an effective tree preservation ordinance for Vienna.