

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

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.*¹
- 2. Establish a Tree Commission.*²
- 3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.*³

¹ 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).

² 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.

³ 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.

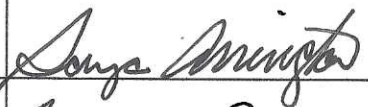

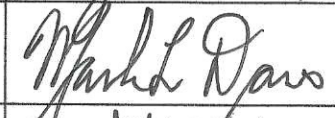



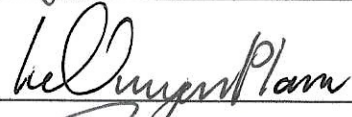
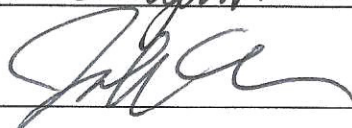
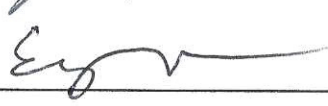

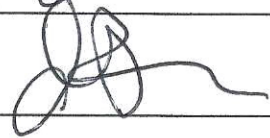

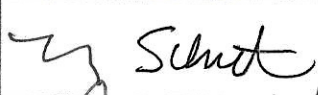
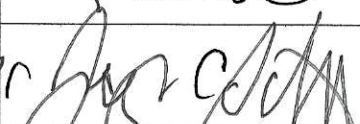
1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.
2. Establish a Tree Commission.
3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

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
HANA MADISON	Hana 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

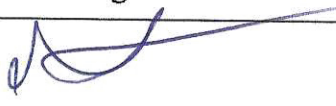
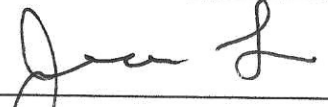

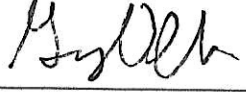
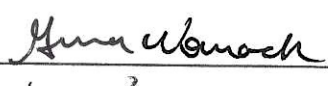

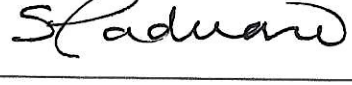

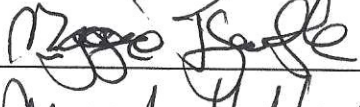
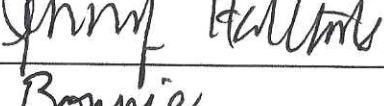
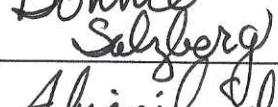
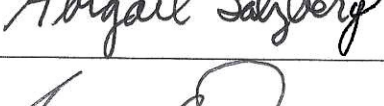


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Vienna Resident	Signature	Address
Sonya Arrington		345 Church St NE
Marybeth Davis		209 Glyndon St NE
Mark L. Davis		209 Glyndon St, NE
Pamela Keene		344 Church St. NE
Dani Keene		344 Church St NE.
Monica McCabe		324 Church St NE
Ouyen Pham		324 Church 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

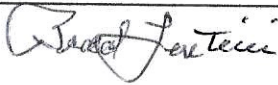

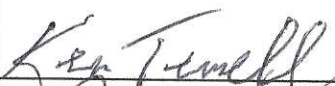

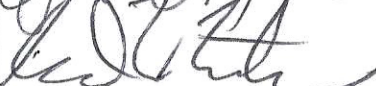
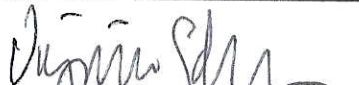

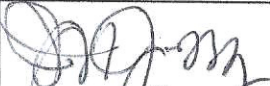


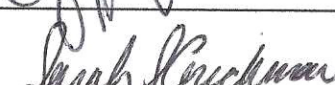
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Vienna Resident	Signature	Address
NOAH ADLER		108 KINGSLEY RD SE
Jean Lee		1002 Desale St SW
Tressi Deller		100 Kingsley Rd SE
Greg Deller		106 Kingsley Rd SE
Gina Wonnach		1013 Cottage St SE
Scott Hallworth		102 Kingsley Rd SE
Stephanie Paduan		118 Kingsley Rd SE
Brad Mellor		108 KINGSLEY RD SW
MAGGIE MELLOR		108 Kingsley Rd SW
Jennifer Hallworth		102 Kingsley Rd SE
Bonnie Salzberg		613 Upham Place NW
Abigail Salzberg		" "
JONATHAN ADLER		108 Kingsley Rd SE
GREG ADLER		108 Kingsley Rd SE


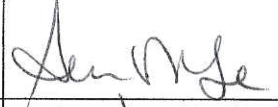



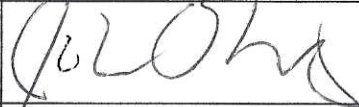



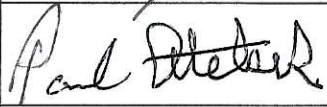

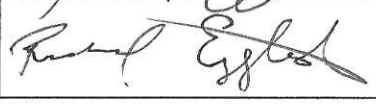
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BRAD LENTINI		416 MARSHALL ROAD SW VIENNA, VA 22180
Edna Trimm		608 TAZEWELL RD NW Vienna, Va. 22180
Ken Terrell		205 TAKAKI RD. VIENNA, VA 22180
GREG M'CAUGHEN		205 WHISPERING WIND CT SE VIENNA VA 22180
Gordon Whiteside		101 707 Hunter Ct SW 22180
Virginia Schoenauer		110 Battle St SW, Vienna, VA 22180
Denise Laver		800 SHOHANAN CIRCLE 22180
JULIA KROSZ		903 Ninoran Rd SE 22180
David Sandidge		123 Dogwood St. SW 22180
CS Hornbrook		810 DeSole 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 sandy.shinn@gmail.com
Serena League		1105 Ware St SW Vienna 22180 Serena.league@verizon.net
Niall League	Niall League	1105 WARE ST SW VIENNA 22180 Niall.league@gmail.com
Brian Land		504 Ridge Rd SW brian.land@gmail.com Vienna, VA 22180
Ellen Land		504 Ridge Rd, SW, Vienna, VA 22180 VIENNA, VA
Jim Asmus		910 HILLCREST SW 22180
JOHN O'KEEFE		412 PECUNIA CT VIENNA 22180 SE
Kenneth Sierczega		54 Kibler Circle SW, Vienna, VA 22180 Kenneth.sierczega@verizon.net
Janet + Mike Mercer	Janet Mercer	Janet@jmsat.com
Kathleen Alvarez		620 Tapawingo Rd SW
Cesar Alvarez		620 Tapawingo Rd SW
Paul Atelsek		1007 Mountfort Ct Vienna, VA 22180 SW
8/19 Reshma Eggleston		614 Plum St. SW reshmaeggleston@gmail.com Vienna, VA 22180
Richard Eggleston		614 Plum St. SW Vienna, VA 22180

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Vienna Resident	Signature	Address + Email
Handwritten 8/19 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 124 Kingsley Rd. SW 22180
Abigail Hedden	Abigail Hedden	318 Johnson St SW abigail.hedden@gmail.com
Inga Erickson	Inga Erickson	105 Dogwood St. SW Vienna VA 22180
Steve Brown	Steve Brown	stevethesterman@gmail.com 124 Kingsley Rd SW Vienna, VA 22180
Elvira Germino Hansen	Elvira Germino Hansen	514 Creek Crossing Rd NE Vienna, VA 22180
Scott M Stewart	Scott M Stewart	11044 Ashwood Dr SW Vienna, Va. 22180
Elizabeth Thomas	Elizabeth Thomas	1122 Ware St. SW Vienna, VA 22180
Chris Thomas	Chris Thomas	1122 Ware St SW Vienna, VA 22180
Megan Sierzege	Megan Sierzege	511 Kibler Cir SW Vienna, VA 22180 mesierzege@gmail.com
Ken Foley	Ken Foley	511 Mashie Dr SE Vienna, VA 22180 Ken.Foley@verizon.net
Diane Foley	Diane Foley	511 Mashie Dr SE Vienna VA 22180
Linn Foley	Linn Foley	511 Mashie Drive SE Vienna, VA, 22180

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	Vienna Resident	Signature	Address
8/24	Patricia Houston	Pat Houston	1011 Tapawingo Rd, SW Vienna, VA 22180
8/26	Julie Hielem	Julie Hielem	510 Kibler Cir SW Vienna, VA 22180
8/26	Miguel Fernandez	Miguel	507 507 Kibler Circle SW Vienna, VA 22180
8/26	Joel Cline	Joel Cline	505 KIBLER CIRCLE SW, VIENNA, VA. 22180
	Nancy Cline	Nancy Cline	505 Kibler Cir SW Vienna VA 22180
8/26	Rayton Giffen	Rayton Giffen	502 502 Kibler Cir SW Vienna, VA 22180
9/7	Gabriel Fernandez	Gabriel Fz.	507 Kibler Circle SW 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
	Andrei Tanas	Andrei 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 jencoady@gmail.com	
Beth Glicker	Beth Glicker	119 Elm St SW BRG65@verizon.net	
Leah Glicker	Leah Glicker	119 Elm St. SW leahrglicker@gmail.com	
Amee Martin	Amee Martin	505 LEWIS ST NW	
Eric Robertson	E. R. S.	1001 WARE ST. eric-b-robertson@yahoo.com	SW
Kathi Robertson	Kathi Robertson	1001 WARE ST SW kathi.robertson@yahoo.com	
Norma Curry	Norma Curry	426 Yeoman Dr Vienna VA 22180	SW
Samin Javid	Samin Javid	2202 witness ct vienna, VA, 22181	NW
Moc Spangui	M. Spangui	2202 witness ct vienna VA 22181	NW
Anne Marie Kelly	Anne Marie Kelly	600 Hillcrest Drive, SW Vienna, VA 22180	sign
ANGELA RANDALL	Angela Randall	315 Patrick St SW VIENNA VA 22180 ARANDALL1@VERIZON.NET	
Laura Jones	Laura M Jones	325 Sherwood Dr NE Vienna, VA 22180	
Duane G. Merrill Jr.	Duane G Merrill Jr	600 Hillcrest Drive, SW Vienna, VA 22180	
Nicole McFarigal	Nicole McFarigal	962 Nicholas Cir SE Vienna VA 22180	

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9/9

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

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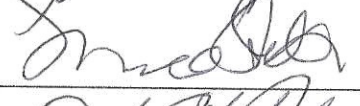

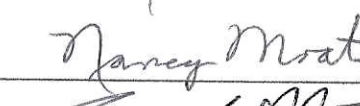
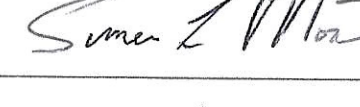
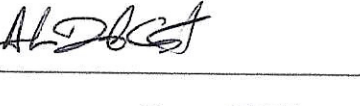

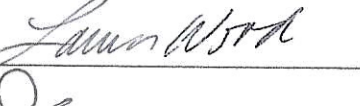
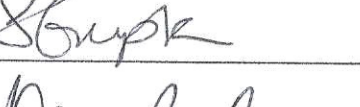


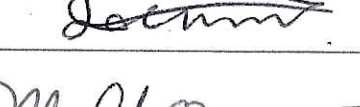
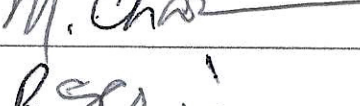
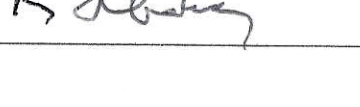
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9/9 Randall Brinkhuis	Randall Brinkhuis	210 Park Terr. Ct., SE, #56 Vienna, VA 22180	
Ruth Coleman	Ruth Coleman	909 Olympian Cir Vienna, VA 22180	SW
John P. Giunta	John P. Giunta	117 Moore Ave., SW Vienna, VA 22180	
9/16 Holly Beel	Holly Beel	415 Mill St. SE 22180	
Keith McCormick	Keith McCormick	401 Fellini Court SE 22180	
Craig Kochel	Craig Kochel	113 Battle St. SW Vienna VA 22180	
Sheryl Mcbrady	Sheryl Mcbrady	113 Battle St. SW vienna VA 22180	
Kathleen	Kathleen	400 Nelson Vienna VA 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 22180.	
NORMAN RYAN	Norman Ryan	506 PLUM ST SW VIENNA 22180	
MARK WASHKO	Mark Washko	715 Upham Pl NW	
Trish Cochran	Trish Cochran	113 Elm St SW 22180	

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


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Rory Daly		305 East S WTE 22180
Susan Gillman		23 Ag Hill Ave 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 Vienna, VA 22180
DIANE Boyle		113 Dogwood St. SW Vienna, Va. 22180
Doug Croind		711 UPHAM PL NW Vienna, VA 22180
'WE'-WE' Lee		726 UPHAM PLACE VIENNA VA 22180
Marcia Charin		403 Center St. N. Vienna, VA 22180
Richard Charin		403 Center St N Vienna, VA 22180

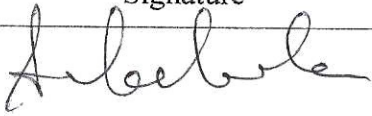
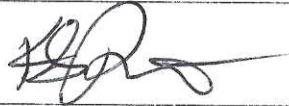


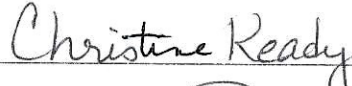

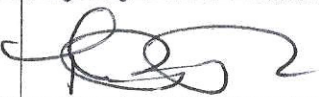
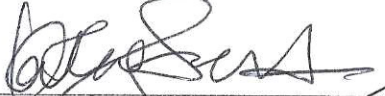






- 1. Enact the Tree Conservation Ordinance authorized by the Virginia General Assembly and in Place in Fairfax County.**
- 2. Establish a Tree Commission.**
- 3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.**

Vienna Resident	Signature	Address
Betty Collins	Betty Ann Collins	405140 Holloway Ct Vienna VA 22180
Ray Collins	Ray Collins	405 Holloway Ct. Vienna, VA 22180
Brian Baker	Brian Baker	404 Holloway Ct. Vienna, VA 22180
Catherine Baker	Catherine Baker	404 Holloway Ct. Vienna, VA 22180
Linda Berk	Linda Berk	401 Holloway Court NE Vienna, VA 22180
Sofia Ebersole	Sofia Ebersole	401 Holloway Ct NE Vienna, VA 22180
Michelle Norman	Michelle Norman	319 Broadleaf Dr NE Vienna, VA 22180
Peter Norman	Peter Norman	313 Broadleaf Dr NE Vienna VA 22180
Yamir Misshans	Yamir Misshans	305 Broadleaf Dr. NE
Anthony Giovanniello	Anthony Giovanniello	317 Broadleaf Dr. NE Vienna 22180
Lea Giovanniello	Lea Giovanniello	317 Broadleaf Dr NE Vienna, 22180
Gail Gullander	Gail Gullander	314 Broadleaf Dr. NE Vienna, VA 22180
Alan Hart	Alan Hart	312 Broadleaf Dr NE Vienna, VA 22180
Lea Hart	Lea Hart	312 Broadleaf Dr NE Vienna VA 22180

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

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





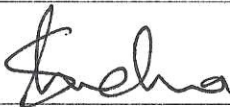
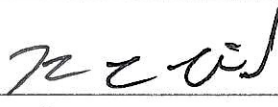

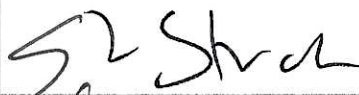
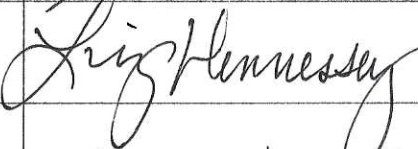

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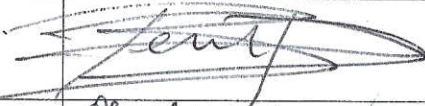
3. Establish a Tree Planting Budget and Track and Publish the Number of Trees Planted on Town Property Each Year.

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

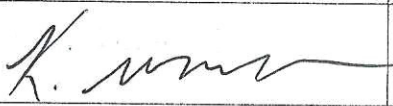



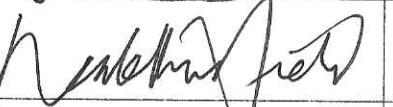





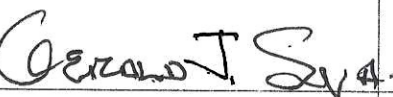
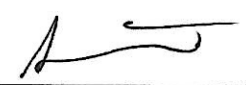
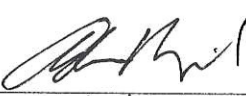
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Vienna Resident	Signature	Address
JEAN Tamburo		120 Elm St SW Vienna VA 22180
Iryna Asipenka		403 Holloway Ct N.E. Vienna VA
Victor Asipenka		403 Holloway CT NE Vienna 22180
ANDRIA GARRETT CONWAY		407 Holloway CT NE
KENDALL J. MATTER	Kendall J. Matter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

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


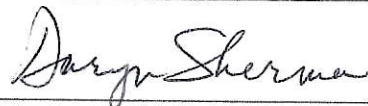
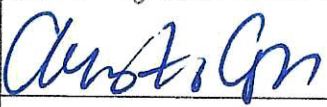

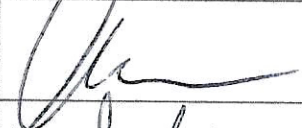


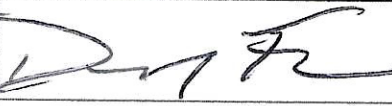
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Vienna Resident	Signature	Address
Karl Stock		501 Park St NE Vienna VA 22180
Roger Joyal		328 Sherwood Drive Vienna, VA 22180
Nick Montalto		324 Sherwood Dr NE Vienna, VA 22180
Derise Montalto		324 Sherwood Dr NE Vienna VA 22180
Neale Ainsfield		331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



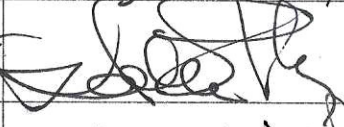
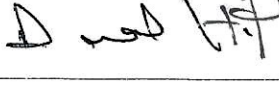


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Vienna Resident	Signature	Address
Jessica Busche	Jessica Busche	318 Westview Ct NE Vienna, VA 22180
Susan Graves	S. Graves	304 Westview Ct Vienna, VA 22180
Joey Graves	Jay D. Graves	304 Westview Ct Vienna, VA 22180
John Dixon	John Dixon	306 Westview Ct. NE Vienna, VA 22180
Karl Dixon	Karl Dixon	306 Westview Ct. NE Vienna, VA 22180
Samuel Espinosa	Samuel Espinosa	300 Westview Ct NE Vienna, VA 22180
Kim MORGAN	Kim E. Morgan	542 Beulah Rd NE Vienna, VA 22180
Jacqueline Dendine	Jacqueline Dendine	321 Westview Ct NE Vienna, VA 22180
Paul Kypre	Paul Kypre	300 Westview Ct NE Vienna, VA 22180
"	"	300 Westview Ct. NE Vienna, VA 22180



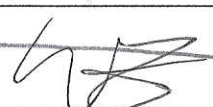
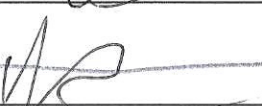
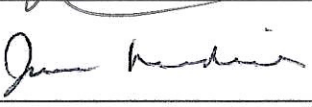
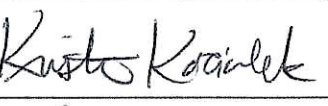
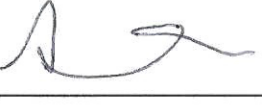
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Vienna Resident	Signature	Address
PETER SHERMAN		416 CREEK CROSSING RD, NE VIENNA, VA 22180
DARYN SHERMAN		1
Christine Gph		1218 Kelley St SW Vienna VA 22180
	EDWARD WAGAMAN	425 CENTER ST N VIENNA, VA 22180
Don Wagaman		425 Center St N Vienna VA 22180
Adam Yang		427 Center St. N Vienna, VA 22180
Mike Janik		417 Center St N Vienna VA 22180
Doug Francis		417 MacArthur Ave NE 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
DAAD PIERCE		407 Council Dr NE
W. Pierce		407 Council Dr NE
KANA Ng		409 COUNCIL DR NE

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Vienna Resident	Signature	Address
9/16 M E Azzar		405 CENTER ST
Milagro Crespo		212 Park Terrace Ct. SE Apt. 67 Vienna VA, 22180
Walter Zvikas		2815 Menwood Oaks Ln Vienna VA
Handy Harris		9635 Chatham Creek Vienna VA 22180
Joan Hendricks		100 Elmer Dr SW Vienna, VA 22180
Kristen Kociulek		507 Tapaningo Rd SW Vienna, VA 22180
Avril Garland		917 Hillcrest Dr. SW Vienna, VA 22180

N

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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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[illegible]


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[illegible]

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Vienna Resident	Signature	Address
Joe Hal Singer		503 Park SE

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](#)

<p>CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.</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"> 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. 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. 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.
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.) & §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

	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
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				
	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> 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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</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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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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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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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
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> 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
703.255.6349 (office)
viennava.gov

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

From: Kevin <kevink0417@gmail.com>

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

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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
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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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

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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](#)

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

From: Land, Brian <bland@kirkland.com>
Sent: Thursday, September 28, 2023 11:49 AM
To: Levy, David <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

KIRKLAND & ELLIS LLP

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

T +1 202 389 5956

F +1 202 879 5200

brian.land@kirkland.com

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9/27/23

Option 1 Blacklined to Show Comparison with Fairfax County's Tree Conservation Ordinance Footnotes Show the Source in Fairfax County and Falls Church for Other Provisions	
Footnote	Explanation
1	<p>Critical root zone: This definition is in Fairfax County Code 120-2-1 https://library.municode.com/va/fairfax_county/codes/code_of_ordinances?nodeId=THCOCOF_AVI1976_CH120HESPMESTTROR_ART2DE_S120-2-1DE</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. https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/Assets/Documents/21-01-tech-bulletin-tree-preservation-submission-deviations.pdf</p>
3	<p>The cost for the tree fund is from the Fairfax County Public Facilities Manual, 12-0312, https://online.encodeplus.com/regs/fairfaxcounty-va-pfm/doc-viewer.aspx#secid-583</p>
4	<p>The 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/</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. https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/21-11-notification-of-proposed-removal-of-trees.pdf</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. https://www.fallschurchva.gov/DocumentCenter/View/157/Urban-Forestry-Development-Guidelines?bidId=</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 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.</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), https://library.municode.com/va/falls_church/codes/code_of_ordinances?nodeId=PTIICOOR_CH44VE_ARTIITRSH_DIV5TRPRMAAGBO_S44-139PRADBOTEBO</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, ~~2009~~24.

~~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 82. 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.¹

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

¹ 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. It is also in several other Virginia locality tree ordinances, including Norfolk, VA and Abingdon, VA.

medium and high density areas of a PRC District	
R-12; R-16; PDH-12; PDH-16 <u>RS-16 - Single Family Detached Residential</u>	Fifteen <u>Twenty five</u> percent (15 %)
R-5; R-8; PDH-5; PDH-8 <u>RS-12.5 - Single Family Detached Residential</u>	Twenty <u>five</u> percent (20 <u>5</u> %)
R-3; R-4; PDH-3; PDH-4 <u>RS-10 - Single Family Detached Residential</u>	Twenty five percent (25 <u>0</u> %)
R-A; R-C; R-E; R-1; R-2; PDH-1; PDH-2; and low density areas of a PRC District <u>RMU - Residential Multi-Unit Zone</u>	Thirty <u>Fifteen</u> percent (30 %) <u>15</u> %)
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	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.²
- (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.

² 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.³
 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.⁴

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

- (a) The following uses are exempt from the requirements of this ~~C~~chapter: 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.

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

⁴ 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.⁵

⁵ 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.⁶ A one-year tree protection bond shall be collected by the Town for all new tree(s).⁷ 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

⁶ 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=>

⁷ 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.⁸

~~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

⁸ 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=PTIICOR_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.

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.

From: Christina Caplan <caplanchristina@yahoo.com>

pg 70

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

To: Levy, David <David.Levy@viennava.gov>; Plowgian, Jessica <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 ***

NOTICE: This e-mail and any of its attachments may constitute a public record under the Virginia Freedom of Information Act. Accordingly, the sender and/or recipient listed above may be required to produce this e-mail and any of its attachments to any requester unless certain limited and very specific exemptions are applicable.

Town of Vienna, Virginia

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

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

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.