



## CITY COUNCIL AGENDA December 19, 2022 CERTIFICATIONS

J. Lloyd Snook, III, Mayor  
Juandiego Wade, Vice Mayor  
Sena Magill, Councilor  
Michael K. Payne, Councilor  
Brian R. Pinkston, Councilor  
Kyna Thomas, Clerk

### 4:00 PM OPENING SESSION

Register at [www.charlottesville.gov/zoom](http://www.charlottesville.gov/zoom). The public may view this portion of the meeting electronically by registering in advance for the Zoom webinar or on the City's streaming platforms and local government Channel 10. Individuals with disabilities who require assistance or special arrangements to participate in the public meeting may call (434) 970-3182 or submit a request via email to [ada@charlottesville.gov](mailto:ada@charlottesville.gov). The City of Charlottesville requests that you provide a 48-hour notice so that proper arrangements may be made.

**Call to Order/Roll Call** Councilor Magill was absent

### Agenda Approval

PCOB Ordinance and Resolution were removed from Consent Agenda to Action Item  
APPROVED 4-0 (WADE/PINKSTON)

### Reports

1. Discussion: Reprecincting

### 5:30 PM CLOSED SESSION pursuant to Sections 2.2-3711 and 2.2-3712 of the Virginia Code (Boards and Commissions; legal consultation)

Vote to meet in closed session APPROVED 4-0 (PINKSTON/WADE)

Vote to certify closed session APPROVED 4-0 (PINKSTON/PAYNE)

### 6:30 PM BUSINESS SESSION

This portion of the meeting will accommodate a limited number of in-person public participants in City Council Chamber at City Hall as we employ a hybrid approach to public meetings. Registration is available for a lottery-based seating selection at [www.charlottesville.gov/1543/Reserve-a-Seat-for-City-Council-Meeting](http://www.charlottesville.gov/1543/Reserve-a-Seat-for-City-Council-Meeting). Reservation requests may also be made by contacting the Clerk of Council office at [clerk@charlottesville.gov](mailto:clerk@charlottesville.gov) or 434-970-3113.

### Moment of Silence

### Announcements

### Recognitions/Proclamations

**Board/Commission Appointments** APPROVED 4-0 (WADE/PINKSTON)

**Consent Agenda\*** APPROVED 4-0 (PINKSTON/WADE)

2. Minutes: November 7 Council meeting, November 21 Council meeting
3. Ordinance: Amending the 2018 City/County Courts Memorandum of Agreement and approving a 40-year lease (2nd reading)  
#O-22-162
4. Resolution: Transferring Capital Funds from City/County fund (P-00834) for renovations to Washington Park Pool - \$350,000 (2nd reading)  
#R-22-163
5. Ordinance/Resolution: Police Civilian Oversight Board Matters Moved to Action Items  
APPROVED 4-0 (WADE/PINKSTON)
  - a. Ordinance: Amending Chapter 2, Article XVI of the City Code (PCOB) (2nd reading)  
#O-22-164  
APPROVED 4-0 (PAYNE/PINKSTON)
  - b. Resolution: Approving Operating Procedures for the PCOB (1 reading; tabled from December 5)  
#R-22-165  
Add suggested Amendments APPROVED 4-0 (PAYNE/PINKSTON)  
Amended Resolution APPROVED 4-0 (PINKSTON/WADE)

6. Resolution: Appropriating Bond Proceeds for the Woodland Drive subdivision - \$192,453.98 (1 of 2 readings)

### City Manager Report

- Report: December update

### Community Matters

Public comment for up to 16 speakers (limit 3 minutes per speaker). Preregistration available for first 8 spaces at <https://www.charlottesville.gov/692/Request-to-Speak>; speakers announced by Noon on meeting day (9:00 a.m. sign-up deadline). Additional public comment at end of meeting.

### Action Items

7. Public Hearing/Res.: Public Hearing and Resolution of Appropriation to Amend the Fiscal Year 2023 Budget (1 of 2 readings)
8. Public Hearing/Ord.: Private drainage easements (2) 2100 Avon Court (1 of 2 readings)
9. Public Hearing/Ord.: Temporary Aerial Easement 1223-1225 Harris Street (1 of 2 readings)
10. Ordinance: Considering a Zoning Map Amendment for the Mount View PUD (Planned Unit Development) (2nd reading) (PINKSTON/PAYNE) APPROVED 4-0 #O-22-166
11. Resolution: Considering a Sidewalk Waiver Request for the Mount View PUD (Planned Unit Development) (1 reading; tabled from December 5)  
Tabled to a later date upon request for deferral by the applicant

### General Business

12. Resolution ADDED During Meeting: Authorizing the City Manager and the Acting City Attorney to Retain Outside Legal Counsel APPROVED 4-0 (PINKSTON/WADE) #R-22-167

### Other Business

### Community Matters (2)

### Adjournment

**ORDINANCE**

**To Approve an Amended Agreement and to Approve a 40-year Lease of the Surface Parking Lot at 701 East Market Street to Albemarle County During Designated Hours**

**BE IT ORDAINED** by the Council of the City of Charlottesville, Virginia, THAT the following agreement and lease are approved:

1. Amendment to the Memorandum of Agreement between the City of Charlottesville and Albemarle County To Facilitate the Expansion, Renovation, and Efficient and Safe Operation of the Albemarle Circuit Court, the Albemarle General District Court, and the Charlottesville General District Court, and
2. City of Charlottesville Agreement for a Lease of the Surface Parking Lot at 701 East Market Street by the City of Charlottesville to the County of Albemarle, for a term of 40 years (20 years, plus one 20-year renewal) to be used by Albemarle County as parking for County Courts; and

**BE IT FURTHER RESOLVED** that the City Manager is hereby authorized to execute the above-referenced Amendment to the Memorandum of Agreement and the City of Charlottesville Lease Agreement, as the agent of City Council.

**RESOLUTION**  
**Appropriating the amount of \$350,000**  
**For Renovations to Washington Park Pool**

**WHEREAS** renovations are needed to resurface the Washington Park Pool shell and pool amenities, including shade structures and mirror renovation;

**WHEREAS** Council previously appropriated funding to install synthetic turf and lights on four (4) rectangular athletic fields at Darden Towe Park in FY 20;

**AND WHEREAS** Albemarle County has not approved this project and recent deliberation confirms they are not moving forward as originally planned;

**BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia, that the sum of \$350,000 is hereby appropriated as follows:

**Transfer From:**

\$350,000      Fund: 426                      WBS: P-00834                      G/L Account: 599999

**Transfer To**

\$350,000      Fund: 426                      WBS: P-00XXX                      G/L Account: 599999

**ORDINANCE**  
**AMENDING AND REENACTING CHAPTER 2 (ADMINISTRATION),**  
**ARTICLE XVI (POLICE CIVILIAN REVIEW BOARD)**

**WHEREAS** on December 21, 2021 the Charlottesville City Council previously enacted an ordinance establishing a Charlottesville Police Civilian Oversight Board in conformity with Virginia code §9.1-601; and

**WHEREAS** while preparing a set of policies and procedures for the performance of duties by said oversight board, as required by Virginia Code Sec. 9.1-601(D), it has become apparent that several amendments to the previously- enacted ordinance would clarify the board's authority and allow implementation of best practices; now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLOTTESVILLE, VIRGINIA**, that Article XVI (Police Civilian Oversight Board) of Chapter 2 (Administration) of the Code of the City of Charlottesville (1990), as amended ("City Code") is hereby amended, reordained and reenacted to include the following:

**1. Section 2-458 of the City Code shall be amended to read as follows:**

Sec. 2-458 - Investigations of Complaints and Incidents.

(a) Compliance. Any investigation shall comply with all federal, state, and local laws, as well as with requirements for the initiation and conduct of investigations described in the procedures promulgated by the City Council under § 2-460 of this ordinance.

(b) Compelled Statements. The Board may not compel a statement from any Department employee, other than by means of its subpoena powers.

(c) Exclusions. The Board shall not consider complaints, incidents, claims or issues involving the following:

(1) Any incident that occurred more than one year before the filing of the Complaint, or one year before the Board received notice of the incident, except as otherwise authorized by subsection (d) of this section;

(2) Except as otherwise authorized by subsection (d) of this section, a matter that was the subject of an investigation where more than seventy-five (75) days has elapsed since the Department sent notice to the Complainant informing the Complainant that the Department's Internal Affairs investigation is complete (unless the Board determines that there is good cause to extend the filing deadline);

(3) Matters that are the subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or a filed complaint), or any pending City of Charlottesville grievance

proceeding;

(4) Any financial management related issue;

(5) Any complaint, incident, claim or issue where the Complainant requests that the Board not have access to their files;

(6) Any complaint, incident, claim or issue that has previously been the subject of an investigation by the Board, unless substantial new information has come to the attention of the Board;

(7) An allegation of misconduct only by employees of law enforcement agencies other than the Department. Such complaints should be referred to the appropriate law enforcement agency;

(8) An allegation of conduct that does not violate the Charlottesville Police Policies and Guidelines, Disciplinary Orders, or Code of Conduct;

(9) Any other claim outside the scope of the Board's authority expressly set forth within this Ordinance.

(d) Exceptions to Time Limits. With the concurrence of the City Manager, the Board may review investigations beyond the time limits specified in subsections (c)(1) and (c)(2) if:

(1) The board determines that there is good cause for doing so, or

(2) As part of an audit taking place under Section 2-462(b).

(e) Suspension of Investigations. If a Complaint asserts criminal conduct by an employee of the Department, or if at any point in an investigation of a Complaint or Incident the Board becomes aware that an employee may have committed a criminal offense, the Board shall:

(1) Suspend the investigation and notify the Chief of Police and Commonwealth's Attorney of the alleged conduct, ensuring that no statements obtained from the Police Department employee(s) whose actions are the subject of the matter are shared with criminal investigators or any prosecuting authority except in accordance with applicable law; and

(2) Evaluate, in consultation with Board legal counsel, the City Attorney, and the Commonwealth's Attorney, whether competing public interests and civil rights involved permit the resumption of continued, parallel investigation by the Board.

(f) Subpoenas.

(1) If the Board determines that there is evidence (including witnesses) not within the control of the Department that the Board is unable to obtain voluntarily, the Board by two-thirds vote may direct the Executive Director, on behalf of the Board, to apply to

the Charlottesville Circuit Court for a subpoena compelling the attendance of such witness or the production of such books, papers, and other evidence, and the Court, on finding that the witness or evidence is material to the discharge of the Board's duties, may issue the requested subpoena.

(2) If the Executive Director is denied access to material witnesses, records, books, papers, or other evidence within the control of the Department that the Executive Director deems necessary to perform their duties and the duties of the Board, the Executive Director may request the City Manager to require the Department to produce the requested witnesses and documents. The City Manager, or their designee, shall not unreasonably deny such a request, but may place conditions on the production of the requested witnesses and documents as necessary to preserve confidentiality for the reasons set forth in this ordinance. The City Manager, or their designee, shall issue a decision on the Executive Director's request within 5 business days from the date of that request.

(3) If the City Manager, or their designee, denies the Executive Director's request made pursuant to subparagraph (2) above, the Board by two-thirds vote may direct the Executive Director, on behalf of the Board, to apply to the Charlottesville Circuit Court for a subpoena compelling the attendance of such witnesses or the production of such books, papers, and other evidence. The Court, on finding that the witness or evidence is material to the discharge of the Board's duties, shall cause the subpoena to be issued with such conditions as the Court may deem necessary to protect the Department's concerns about the need for confidentiality. The Board shall give the City Manager and the Department reasonable notice of its intent to subpoena such witness or records and shall give the City Attorney a copy of the request for subpoena. The Board shall not unreasonably withhold its agreement to limitations on the scope of the subpoena requested by the City Manager that may be necessary to protect confidential information. The parties may request that any hearing to be held in the Circuit Court on the request for a subpoena be conducted in a closed courtroom, to the extent permitted by state law. Upon request, the court file for any such subpoena request shall be kept under seal to the extent permitted by state law.

(4) If a subpoena is granted, the Board shall digitally record any interviews or depositions conducted pursuant to the subpoena and shall make copies of any documents obtained by subpoena. The Board shall provide the Department with copies of any such interview/deposition recordings and documents. The Board shall delegate its authority to subpoena and question witnesses to the Executive Director, who shall conduct any interviews, depositions, or questioning of witnesses in a non-public forum that adequately protects the privacy of the individual being subpoenaed, the confidentiality or sensitivity of information shared or sought, and the integrity of any pending or concurrent investigation.

(5) In deciding whether, and under what conditions, the Circuit Court will issue any subpoena, the Court shall refer to procedures and caselaw decided under Rule 3A:12 of the Rules of the Supreme Court of Virginia.

(g) Conduct of Investigations Pursuant to §2-457(a)

(1) If the Complainant asks that their Complaint be investigated by the Department, the Complaint will be investigated by the Department with monitoring by the Executive Director. When the Department's investigation is concluded, the Department will provide the Complainant with an Investigative Report of its findings and the resolution of the Complaint and will provide the Board a summary of the Department's resolution of the Complaint.

(2) The Executive Director may actively monitor all investigations of Complaints of employee misconduct conducted by the Department and shall have access to records and witnesses to the same extent as the Department, subject to the limitations or requirements set out in this Ordinance. Such monitoring may include reviewing the investigative plan of the Department, reviewing with the Department any records within the Department's digital evidence management system, reviewing with the Department any pertinent law enforcement records within the Department's Records Management System, observing any and all real-time interviews of witnesses with the Department, reviewing all recorded interviews which the Executive Director chooses not to attend in real time, providing feedback during the interview to be relayed to Department staff conducting the interview, providing feedback to Department staff in determining next steps in the investigative process, and reviewing facts gained from investigation with Department staff. For active investigations, the Executive Director shall be limited in their participation to the same extent the Department is limited in its participation in such investigations. The Executive Director may monitor the Department's administrative investigation of employee misconduct after the close of the active investigation in the same manner as all other investigations of employee conduct handled by the Department as described in this section. When monitoring Department investigations, during the pendency of the investigations the Executive Director shall not disclose information to the Board, any Board member, or any person other than as authorized in writing by the Chief of Police or the City Manager.

(3) If the Complainant asks that the Complaint be investigated only by the Board, the Executive Director shall initiate an investigation on behalf of the Board. The Executive Director will provide the Chief of Police with enough identifying information to allow the Department to give the Executive Director access to information, records and witnesses as required by §2-452(e) and (f) of this Ordinance as may be relevant to the Complaint. When the Board's investigation is concluded, the Executive Director will provide the Board, the Complainant and the Department with an Investigative Report



that includes a summary of the circumstances of the incident(s) of alleged misconduct, the evidence related to whether there was any misconduct, and any suggested findings related to each allegation.

**(h) Conduct of Investigations Pursuant to §2-457(b).** If the Board is investigating an Incident under the authority of §2-457(b), the Board may request information from the Department, may seek subpoenas as authorized above, and may conduct an investigation of the incident. When the Board's investigation is concluded, the Executive Director will provide the Board, the Department, and (if a complaint has been filed) the Complainant, with an Investigative Report that includes, at a minimum, a summary of the circumstances of the incident, the evidence related to whether the incident involved any police or employee misconduct, and any suggested findings related to the incident. The Executive Director may make recommendations as to whether an allegation, if substantiated, could constitute serious misconduct as defined in Sec. 2-452(d). The Investigative Report shall also be provided to any employees identified within the Investigative Report as having committed employee misconduct.

**(i) Duration of Investigations.** Investigations of complaints and incidents will be completed, and any Investigative Report will be submitted, within seventy-five (75) days from the date the Complaint is received, or the Board received notice of the incident. The Board may extend the 75-day period upon request of the Police Chief or the Executive Director to protect an ongoing investigation or prosecution, or for other good cause, with notice to the Complainant and the City Manager.

**2. Section 2-459 of the City Code shall be amended to read as follows:**

**Sec. 2- 459 – Matters on which the Board may Conduct Hearings**

**(a) Hearings.**

(1) At the conclusion of an investigation of an incident or a complaint the Board may conduct a Review Hearing whose scope and procedures are described in the Board's operating procedures, approved by City Council. Review hearings shall be defined as any hearing conducted by the Board to review the facts, issues and findings of an Investigative Report of the Department related to an Internal Affairs investigation, or of an Investigative Report of the Executive Director related to a Complaint or Incident Investigation.

(2) The Board may conclude that no hearing, or a hearing only on a limited issue, is necessary to support the Board's decision related to a particular complaint or incident. If so, the Board may issue a report without a hearing.

**(b )** Within 30 days of a Review Hearing of an Internal Affairs investigation, the Board shall report their findings publicly and to the City Manager, the Police Chief, and the Complainant with respect to each allegation or issue under review as follows:

(i) That the Board finds that the investigation of the Complaint was satisfactory, and the Board concurs with the findings of the investigation;

(ii) That the Board finds that the investigation of the Complaint was satisfactory, but the Board does not concur with the findings of the investigation, in which case the Board may make recommendations to the City Manager concerning disposition of the Review Request; or

(iii) That the Board finds that the investigation is incomplete or otherwise unsatisfactory and provides a detailed written explanation of the basis for such finding.

(c) If the Board makes a finding under (b)(iii) above, the Board may conduct an independent investigation of the matter that is the subject of the complaint. The Board shall report publicly and to the City Manager, the Chief of Police and the Complainant that the Board has made one of the following findings:

(i) That the Board now finds that, despite the defects in the original Internal Affairs investigation, the Board's own investigation has produced no material evidence to dispute the original findings of the Internal Affairs Department.

(ii) The Board's independent investigation has produced substantive new information that causes them to disagree with the findings of the Internal Affairs investigation. In this case, the Board shall make recommendations to the City Manager concerning disposition of the Complaint; or,

(iii) That despite the Board's best efforts, the evidence is insufficient to allow the Board to determine whether the findings of the Internal Affairs Investigative Report are correct.

(d) Within 30 days of a Review Hearing of a Complaint or Incident investigation, the Board shall report their findings publicly and to the City Manager, the Police Chief, and the Complainant with respect to each allegation or issue under review as follows:

(i) That the Board finds that the Department employee committed misconduct;

(ii) That the Board finds that no Department employee committed misconduct; or

(iii) That despite the Board's best efforts, the evidence is insufficient to allow the Board to determine whether any Department employee committed misconduct.

**RESOLUTION**  
**To Approve Operating Procedures for the**  
**City's Police Civilian Oversight Board**

**BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia, pursuant to Section 2-360 of the City Code, and as required by Section 9-601(D) of the Virginia Code, THAT that Operating Procedures are hereby approved for the Charlottesville Police Civilian Oversight Board.

**ORDINANCE**  
**APPROVING A REZONING, SUBJECT TO PROFFERED DEVELOPMENT**  
**CONDITIONS, OF PROPERTY LOCATED AT 908 ST. CLAIR AVE, 1133 OTTER ST,**  
**1221 LANDONIA CIRCLE, AND 1201 LANDONIA CIRCLE**  
**TO ESTABLISH A PLANNED UNIT DEVELOPMENT (“MOUNT VIEW PUD”)**

**WHEREAS** in order to facilitate a specific development referred to as the Mount View Planned Unit Development (the “Project”), Shimp Engineering, as the agent of Mount View Baptist Church, Mount View Properties, LLC, and Route 250 Houses, LLC (collectively “Landowner”), has submitted rezoning application ZM22-00002, proposing a change in the zoning classification of certain land fronting on St. Clair Avenue, Otter Street, Landonia Circle, and River Vista Avenue, identified within the City’s real estate assessment records by Real Estate Parcel Identification Nos. 490065000, 490072100, 490072000, and 490073000 (collectively, the “Subject Property”); and

**WHEREAS** the Subject Property is currently zoned “R-2” and the Landowners are requesting City Council to rezone and designate the Subject Property as a Planned Unit Development (“PUD”), subject to the provisions of the PUD Development Plan and further subject to development conditions proffered by the Landowners, all as set forth within the application materials for ZM22-00002, submitted by the Landowners through their agent (the “Proposed Rezoning”); and

**WHEREAS** a joint public hearing on the Proposed Rezoning was conducted by City Council and the Planning Commission on September 13, 2022, following notice to the public and to adjacent property owners as required by law; and

**WHEREAS** City Council has considered the proposal for the Project set forth within the application materials for ZM22-00002, the Staff Report, comments received from the public, the Planning Commission’s recommendation, and the Comprehensive Plan; and

**WHEREAS** this Council finds and determines that the public necessity, convenience, general welfare and good zoning practice require the Proposed Rezoning; that both the existing zoning classification (R-2) and the proposed PUD zoning district classification, inclusive of the PUD Development Plan and the proffered development conditions, are reasonable; and that the Proposed Rezoning is consistent with the Comprehensive Plan; now, therefore,

**BE IT ORDAINED by the Council of the City of Charlottesville, Virginia** that the Zoning District Map incorporated in Section 34-1 of the Zoning Ordinance of the Code of the City of Charlottesville, 1990, as amended, shall be and is hereby amended and reenacted as follows:

*Section 34-1. Zoning District Map.* Rezoning from R-2 to PUD the parcels of land identified within the City’s tax assessment records by Real Estate Parcel Identification No. 490065000, 490072100, 490072000, and 490073000 (the land currently having the addresses of 908 St. Clair Avenue, 1133 Otter Street, 1221 Landonia Circle, and 1201 Landonia Circle), subject to the PUD Development Plan for the Mount View PUD, and subject further to development conditions proffered by the Landowners, which are hereby accepted by this City Council and set forth following below:

## Approved Proffers

In furtherance of the Project, and if the Subject Property is rezoned as requested, the use and development of the Property will be subject to and in accordance with the following conditions:

### 1. AFFORDABLE HOUSING:

The Landowner shall provide affordable housing within the Property, as follows:

- a. For the purposes of this Proffer, the term “For-Rent Affordable Dwelling Unit” means a dwelling unit where the monthly cost of rent is affordable to households at 60 percent of the Area Median Income (AMI) for the Charlottesville, Virginia Metro Area as published annually by the Federal Department of Housing and Urban Development (“HUD”). For the purposes of this Proffer, the term “affordable” means that the cost of rent, including tenant-paid utilities, does not exceed 30% of the monthly income of a 60% AMI household.
  - i. For-Rent Affordable Dwelling Units shall be reserved for rental to low and moderate income households having income less than or equal to 60 percent of the AMI.
- b. The Owners shall cause seven (7) dwelling units constructed within the Project to be For-Rent Affordable Dwelling Units (the “Required Affordable Dwelling Units”). The Required Affordable Dwelling Units shall be identified on a layout plan, by unit, prior to the issuance of any certificate of occupancy for a residential unit within the Property (“Initial Designation”). The Owner reserves the right, from time to time after the Initial Designation, and subject to approval by the City, to change the unit(s) reserved as For-Rent Affordable Dwelling Units, and the City’s approval shall not unreasonably be withheld so long as a proposed change does not reduce the number or make-up of Required Affordable Dwelling Units and does not result in an Affordability Period shorter than required by these proffers with respect to any of the Required Affordable Dwelling Units.
  - i. The Required Affordable Dwelling Units shall be reserved as such throughout a period of at least ninety nine (99) years from the date on which the unit receives a certificate of occupancy from the City’s building official (“Rental Affordability Period”). All Required Affordable Dwelling Units shall be administered in accordance with one or more written declarations of covenants within the land records of the Charlottesville Circuit Court, in a form approved by the Office of the City Attorney.

- ii. The Required Affordable Dwelling Units shall be comprised of four efficiency units, one one-bedroom unit, one two-bedroom unit, and one three-bedroom unit.
  - iii. On or before January 10 of each calendar year, or an alternate date mutually agreed upon by the Owners and the City, the then current owner of each Required Affordable Dwelling Unit shall submit an Annual Report to the City on a template provided by the City's Office of Community Solutions, identifying each Required Affordable Dwelling Unit by address and location, and verifying the household income of the occupant(s) of each Required Affordable Dwelling Unit.
  - iv. The Required Affordable Dwelling Units shall be constructed proportionally to the number of market rate units at a rate of 10 percent, so that for every ten (10) units constructed a minimum of one (1) is designated as a Required Affordable Dwelling Unit. Notwithstanding the foregoing, the Required Affordable Dwelling Units may be constructed at a rate that exceeds 10 percent of the total number of dwelling units. All Required Affordable Dwelling Units shall be constructed prior to the issuance of a certificate of occupancy of the 59<sup>th</sup> dwelling unit.
  - v. Section 8 Housing Choice Vouchers or similar housing vouchers will be accepted as a form of payment for the Required Affordable Dwelling Units.
  - vi. The Owners shall provide a marketing plan to the Office of Community Solutions prior to issuance of the first certificate of occupancy for a residential unit within the Project. The marketing plan shall demonstrate how the affordable units will be advertised and will be prepared in a form acceptable to the Office of Community Solutions.
- c. The land use obligations referenced in 1.a.i and 1.b.i through 1.b.vi shall be set forth within one or more written declarations of covenants recorded within the land records of the Charlottesville Circuit Court, in a form approved by the Office of the City Attorney, so that the Owner's successors in right, title and interest to the Property shall have notice of and be bound by the obligations. The Required Affordable Dwelling Units shall be provided as for-rent units throughout the Rental Affordability Period
2. **CONSTRUCTION ENTRANCE:** Construction entrances for site development and construction on the Property shall not connect to River Vista Avenue.

3. **SCREENING FENCE:** A screening fence shall be installed by the Landowners in the locations shown on Sheet 7 of the Development Plan submitted by Shimp Engineering dated February 8, 2022 last revised October 7, 2022 (the “Development Plan”).
  - a. The screening fence may be comprised of masonry, composite, painted or stained lumber, or an alternate material approved by the City’s Director of Neighborhood Development Services (“NDS”) or their designee. Chain link and screening mesh are expressly prohibited as screening fence materials.
  - b. The screening fence shall be a minimum of six (6) feet in height, unless a lesser height is agreed upon by the Owners and the owners of adjacent property where the screening fence is installed along the common boundary line. If a lesser height is agreed upon, record of this agreement must be presented in writing to the City’s Director of Neighborhood Development Services or their designee.
  - c. If, at the time of construction of the screening fence, an adjacent owner has already erected a fence along the common boundary line, the screening fence may be waived in the location where the adjacent owner’s fence is constructed if the adjacent owner prefers their existing fence instead of the screening fence to be installed by the Owners. The adjacent owner must state, in writing, their preference for their existing fence to the Owners and the Director of NDS for the screening fence requirement to be waived.
  - d. The screening fence must be constructed prior to the issuance of the first certificate of occupancy for a residential unit within Block 2; the limits of Block 2 are shown on Sheet 4 of the Park Street PUD Development Plan.
4. **RIVER VISTA SIDEWALK IMPROVEMENTS:** The Landowner shall construct a sidewalk to City standards within the River Vista public right-of-way, adjacent to parcels 4900638000 and 490064000, in order to establish a continuous pedestrian connection between the Subject Property’s entrance from River Vista Ave continuing northwest to the intersection of River Vista Ave and St. Clair Avenue. The sidewalk shall be constructed prior to the issuance of certificate of occupancy of the tenth (10<sup>th</sup>) dwelling unit within the Project and shall be conveyed to the City for acceptance and maintenance. If, at the time of construction, sufficient right-of-way does not exist to accommodate the construction of the sidewalk, and the Owners cannot reasonably obtain an easement from the respective owners of tax parcels 49000638000 and 490064000 to permit the construction of the sidewalk, then the Owners shall make a cash contribution to the City’s Sidewalk Fund in an amount equal to the construction of 270 linear feet of sidewalk by using the then current Sidewalk Fund Calculator. The cash contribution shall be made prior to the issuance of certificate of occupancy of the tenth (10<sup>th</sup>) dwelling unit within the Project.

**RESOLUTION**  
**Authorizing the City Manager and the Acting City Attorney**  
**To Retain Outside Legal Counsel**

**BE IT RESOLVED** by the Charlottesville City Council that the City Manager and any attorney serving as Acting City Attorney are hereby authorized, upon their mutual agreement, to retain outside legal counsel to assist the Office of the City Attorney with any pending litigation involving the City of Charlottesville or Charlottesville City Council, or with any matter requiring the provision of legal advice to the City government or City Council, subject to the City Manager's determination that funding is available for the services of such outside legal counsel.

**BE IT FURTHER RESOLVED** that the City Manager and any attorney serving as Acting City Attorney, are hereby authorized to jointly execute on behalf of the City of Charlottesville an agreement in the nature of an engagement letter, to engage outside legal counsel upon such terms and conditions, as they deem in the best interests of the City.