

Sent via email Mon, Jul 22, 2013 at 8:00 AM

To:

Montgomery County Council President Nancy Navarro
Montgomery County Council Member Phil Andrews
Montgomery County Council Member Roger Berliner
Montgomery County Council Member March Elrich
Montgomery County Council Member Valerie Ervin
Montgomery County Council Member Nancy Floreen
Montgomery County Council Member George Leventhal
Montgomery County Council Member Craig Rice
Montgomery County Council Member Hans Riemer

From:

Christine Real de Azua and John M. Fitzgerald
Residents of Montgomery County and the Town of Chevy Chase
Project Leader, "Urban Forests: Valuing and Protecting Their Many Services," Society for Conservation Biology (SCB) and Counsel to the Urban Forests project of SCB, respectively.

Date: July 22, 2013

Re: Tree Bill 35-12

**Planting is not enough:
Request for amendments to also conserve tree canopy**

We write to you as residents of Montgomery County, and also as members of the Society for Conservation Biology. Ms. Real de Azua is a consultant who is leading a new project on "Urban Forests: Valuing and Protecting Their Many Services" that is directly relevant to the Tree Canopy Bill under your consideration. Mr. Fitzgerald is the former Policy Director of the Society for Conservation Biology and counsel to the project. Our analysis here is our own but it is founded on the principles set out in the Society's forest and other policy statements and publications (<http://www.conbio.org/policy>).

A reading of the revised Bill 35-12 (revision dated July 18) that came out of Committee and is heading for the Council's consideration and vote on July 23 reveals that provisions to conserve trees have been removed throughout.

In essence, this revised bill may facilitate planting of seedlings but will do little to save existing canopy. In particular:

- (1) The Bill as it is now being submitted to the Council has been revised to delete any reference to conservation and any requirement or incentive to conserve existing canopy. Gone are the references in the Bill to "maximize tree canopy retention and establishment; establish procedures, standards, and requirements to minimize the loss and disturbance of tree canopy as a result of development." The few provisions that existed in the original Bill to conserve existing canopy are now gone altogether. These revisions go against the original purpose stated in the first article of the Act, which is, in this order, to: "save, maintain, and establish tree canopy for the benefit of County residents and future generations".
- 2) Even the Conservation Fund originally proposed has now been eliminated. In the new July 18 version of the Bill, the Conservation Fund, including its potential application for canopy conservation through easements, land acquisition, and other incentives, has been eliminated and replaced with "an account" for "planting projects."

(.../...)

(3) The “offset” proposals proposed in the bill to offset environmental impacts are not grounded in conservation science and are not sufficient to offset in the present the loss of the many ecosystem service benefits provided by mature canopy, one of the main purposes of offsets.

(4) The “offset” proposals, whether in kind (seedling planting) or monetary (fee) do little or nothing from an economic standpoint to serve as an incentive to conserve.

(5) Finally, there is no guarantee for jurisdictions that have chosen to establish stronger tree canopy protection standards, such as the Towns of Chevy Chase, where we live, and of Takoma Park, that those standards will not be preempted by this flawed bill. In fact, it appears that the County has even failed to include the Tree Ordinances of those jurisdictions in their compilation of how other jurisdictions are approaching tree canopy management, even though these jurisdictions offered instructive examples of the strong protections adopted by some communities of citizens within Montgomery County. Also omitted from any packet was the letter on the Tree Bill from the Town of Chevy Chase to the Council (March 27, 2013). That letter emphasized the need for the Conservation Fund to facilitate conservation measures such as easements close to the disturbed area and for fees substantial enough to deter simple cut-and-pay practices. For the reasons outlined above, we therefore respectfully request that you amend the Bill so that it includes provisions to conserve tree canopy as originally intended and effectively achieves its stated purpose (to “save, maintain, and establish tree canopy”). Amendments to achieve that purpose include the following:

1. Restore the language in Article 1 to “maximize tree canopy retention and establishment; establish procedures, standards, and requirements to minimize the loss and disturbance of tree canopy as a result of development;”

2. Amend Article 2 so that it addresses “Conservation Requirements” as well as Mitigation Requirements. Direct DEP to develop a program to help conserve mature canopy in place or “in situ” while allowing for reasonable improvements or rebuilding on the property;
3. Establish a Conservation Fund for tree canopy conservation projects, including protection of existing trees and enhancement of tree canopy, and plantings of individual trees, groups of trees, or forests, on private and public property, including small lots, with preference to areas closest where the disturbance occurs;

4. Direct DEP to develop and subsequently maintain a comprehensive, County wide plan to conserve, maintain, and, to the extent practicable, restore tree canopy, and mitigate disturbance to tree canopy.

5. Structure mitigation fees so that they apply regardless of size of lot and include but are not limited to the full value of the ecosystem services and public benefits of each tree, including stormwater retention, erosion prevention, CO₂ capture, absorption of Volatile Organic Compounds, and other contributions to environmental quality and public health, which increase with the age, size, and health of trees and should reflect the estimated lifespan of the tree. The free, publicly available **i-Tree** tool (<http://www.itreetools.org/>) developed and maintained by the US Department of Agriculture/Forest Service, has been designed for, and may be used for, this purpose.

6. Direct DEP to establish a program to provide that after a certain limited time offsets used for mitigation are to be accomplished in advance of the destruction of a tree. Such true offsets are based in conservation science and the precautionary principle, requiring that the offset seedlings or replacement trees grow for several years on an offset site within the same township or otherwise nearby until they deliver ecosystem services equivalent to those of the canopy that will be removed;

7. Establish an inventory of existing urban forest canopy and the identification of trees and areas eligible for priority protective incentives;

8. Clarify that the bill will complement and not preempt the standards of jurisdictions that have stronger standards already in place or choose to adopt stronger standards in the future.

The Value of Trees and Mature Tree Canopy as Natural Capital

Existing trees and mature canopy constitute an important natural resource, or form of natural capital. In its own Tree Ordinance

(<http://www.townofchevy Chase.org/assets/documents/pdfs/trees/treeordfinal.pdf>) , the Town of Chevy Chase, Montgomery County, finds that a mature tree canopy:

“-contributes significant aesthetic value,
-measurably increases property worth, -fosters a cherished quality of life,
-recycles the air we breathe by absorbing carbon dioxide and producing oxygen, absorbs air pollutants, -moderates climate extremes and reduces wind speed, thus conserving energy otherwise used for increased air conditioning and heating,
-provides food and shelter for innumerable plant and animal species,
-forms an interrelated part of the regional forest ecosystem, connecting with adjoining forest communities,
-muffles noise,
-stabilizes soils, reducing soil erosion and stormwater runoff.”

Some of these services can now be quantified based on environmental and other scientific research and valuation tools, such as the U.S. Forest Service under the “**i-Tree**” suite of tools described above.

The major beneficiaries of these canopy services are nearby neighbors and residents. The other direct beneficiaries are all those who enjoy the airshed and watershed affected by these trees that clean both water and air and provide cooling shade. These citizens and towns lose these benefits and are not compensated in any way by this bill for the increased costs of air conditioning, stormwater, and air pollution that the missing trees once allowed them to avoid.

Biodiversity, such as birds, other wildlife and plants, can also be a beneficiary of mature canopy: increasingly, research at the city/county scale as well as at the landscape scale reveals that urban areas, as well as suburban and rural areas can contain relatively high levels of biodiversity, depending on the management practices used. By contrast, the benefits of a seedling tree that survives, and not all of them do, will not accrue for many years.

For a broad range of reasons, including, but not limited to the economic benefits versus the costs, the Council should include in this bill specific measures that protect this natural resource which is valuable for neighbors, neighborhoods and the County as a whole.

Sincerely,
Christine Real de Azua