

FRANKLIN AREA CITIZENS ASSOCIATION

BY EMAIL TO: Clerk to the Board of Supervisors (clerktothebos@fairfaxcounty.gov)

12 February 2017

Dear Chairman Bulova and Members of the Board of Supervisors:

As President of the Franklin Area Citizens Association, representing approximately 1,400 families in the Franklin Forest Area of McLean, we respectfully submit this testimony in strong support of **CODE AMENDMENT - CHAPTER 122 TREE CONSERVATION ORDINANCE AMENDMENT (TREES)**.

We were disappointed that we were not aware or notified of the 11 or 18 January Planning Commission's meetings and actions on this Amendment. For three years, we along with many others worked very hard for any legislation to strengthen the Tree Ordinance and frankly we never expected any opposition in the Commission to having Public Notice which is needed for a transparent and accessible process. Unfortunately, our Dranesville Commissioner John Ulfelder was not able to be at the 11 January meeting because; he could have provided the Commission with important background facts to support the need for this legislation.

When the Commission deferred its decision to 18 January, Commissioner Ulfelder was able to speak, he said that "...this is actually a simple amendment designed to address a serious problem". Furthermore, he said "...that in Dranesville we have found out after the fact there have been plans that were submitted that were inaccurate as to the number, location, and importance of trees on certain lots. And we have found out that the (plan) review was not as complete as it should have been. But once the plan is approved and a bulldozer and chainsaws arrive, they come first- it's too late. And so I think, this was an important step to try to give neighbors-immediate neighbors, as well as neighborhoods the opportunity to find out when a plan has been submitted. Even though time for review is short, ... But the opportunity to go in and see the plan and say, heck , half the trees on that property aren't on this plan" or whatever the inaccuracy is or the mistake that exists within the plan... But the fact is we have a lot of people who have gotten more sophisticated about the Tree Ordinance and about the issue of tree coverage and the need for people to meet the requirements, of the ordinance and to be able to review these kinds of plans in a sophisticated way and to, perhaps, make a difference. And therefore, I will vote against this motion." According to the verbatim account it is clear that the Commission had already made up its mind for a Motion to recommend that the staff study alternative means to notify the public. It is our view, this delay in implementing Public Notice is not necessary. Furthermore, it is very clear, based on our experience that the subject amendment will truly help our citizens understand the process when a grading plan is available for review. **And,**

therefore, we support a NOTICE via-email opt-in by any Community Association for all the reasons stated in this letter.

In way of background, our community was established in 1908 and is one of the oldest in Mclean. The area is an urban forest of giant (100 ft.) oak trees. However, as a result of infill development, we are unfortunately losing our giant trees and canopy at a rapid rate. For more than 30 years our community has subsidized the planting of trees. More importantly, we have for a long period of time recognized that something must be done to stop the unnecessary destruction of trees by reckless **“catch me if you can”** developers and to fix errors in the plans before the damage is done.

We believe that without this Amendment for PUBLIC NOTICE, communities will continue to be vulnerable to the reckless and unjustified removal of trees and the destruction of our environment. If communities are aware of impending infill at a particular site, we are certain, based on past experience that Communities can offer important and helpful comments to the county staff that will save trees from being recklessly destroyed by developers.

To be clear, here are just three brief examples of infill cases in our area: Two of the three infill cases were given Tree Ordinance waivers or exceptions by the county which permitted the removal of **all** trees on the infill sites, consisting of many giant oak trees of 100 feet. When our Association inquired why **all** the trees on these sites had been removed, it was revealed that the County had made an “administrative error”! In a third example, when it appeared to the community that too many trees had been removed from a particular infill site, it was revealed the developer had indeed cut without county approval a number of giant oak trees that were designated on the plan to be saved and protected.

Our community is frequently calling in violations to the county staff, unfortunately after the damage has been done at a site. County inspectors will frequently say that “all is in accordance with the plans”, well, it turns out that the plan was wrong. Additionally, some developers begin work without having established proper tree protection areas and trees that were supposed to be saved and protected are being destroyed. As a result, of these three case examples, we met with Elizabeth Teare, (County Attorney), Rob Stalzer, (Deputy Executive Director), James Patteson, (Director, Department of Public Works and Environmental Services), Bill Hicks, (Director Land Development Services), Jack Weyant, (Director, Site Development and Inspections Division), Keith Kline (Chief Urban Forester) and many others in the Fairfax County Staff, who after inspecting these three examples in our area and other examples of egregious tree destruction in the Chesterbrook Woods Community, as well as other areas, resulted in extensive meetings. The meetings included the aforementioned county staff, as well as, our Supervisor John Foust, to discuss enforcement of the zoning ordinance, as well as Chapter 122 (Tree Ordinance) and ways to strengthen it. Meetings were also held by MCA, the Tree

Commission and Urban Forester and various community representatives with developers and industry representatives. It was clear from these meetings, that the industry would not support any legislation to strengthen the legislation and would oppose any change.

In a continuing effort to strengthen enforcement and the tree ordinance, we met jointly along with two other neighboring community associations and Senator Barbara Favola, as well as, Delegate "Rip" Sullivan to ask that they introduce legislation to strengthen the Tree Ordinance. They said they would try but frankly told us that given the political strength of developers, it would be difficult to get any helpful legislation and we might even get something worse, i.e., weaker legislation. We presented them with a list of suggested amendments of possible ways to strengthen tree legislation, for example, updated penalties was one easy way suggested, to help deter violations. Penalties are now so miniscule that developers can afford to ignore them, even if the law was being enforced by the county staff.

In summary, it took several years to gain legislative approval for something as simple as a straight forward PUBLIC NOTICE regarding infill properties, which would help communities save trees. As we previously mentioned, it should be obvious that the most cost effective means, (costing almost nothing) is an EMAIL opt- in system to notify any Community Association that wants information on infill development in their community. The subject legislation will give communities timely notice of any new infill development planned in their community before the damage is done and it is too late.

As a result of the Planning Commission's recent Motion on the matter, we are concerned that it may delay or even kill a very useful Amendment. We have great respect for the taxpayer's dollars and wish to point out that the process of notifying interested communities VIA EMAIL should cost practically nothing.

Public Notice is also important, because it fits perfectly in the BOS "**Environmental Vision**" since having a transparent and accessible Public Notice will help to make Fairfax County more environmentally sustainable in several areas.

Finally, let's put the focus back on where it belongs: as Commissioner Ulfelder said "...this is a very simple amendment to address a very serious problem." In order to stop needless environmental losses and improve our environment, all we need is to have this simple bit of timely public notice information. The solution is simple and extremely cost effective. Trees cut greenhouse gases, and the Public Notice will help to ensure that infill development will proceed in a more environmentally sensitive manner.

Therefore, in view of the forgoing, we urge the Board of Supervisors to adopt the Subject Amendment to Chapter 122 of the Tree Conservation

Ordinance by utilizing an EMAIL Public Notice System at practically no cost.

Respectfully submitted,

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