

MCPB  
Item # 7  
9/14/06**MEMORANDUM**

**TO:** Montgomery County Planning Board

**VIA:** Gwen Wright, Acting Chief   
Countywide Planning Division

Jorge Valladares, Chief   
Environmental Planning

**FROM:** Katherine Nelson, Planner Coordinator   
Environmental Planning  
Countywide Planning Division  
(301) 495-4622

**SUBJECT:** Bill 36-06, Forest Preservation Advisory Committee Establishment

**Recommendation**

Support the concept of forming of a task force to address the elements stated in Bill 36-06, focusing on urban forestry issues that are not currently regulated. Support an amendment to Chapter 22-A only after receiving recommendations from such a task force, which may include the formation of a legally-mandated advisory committee.

**Background**

On August 1, 2006 Councilmembers Perez, Denis, Praisner and Council President Leventhal introduced Bill 36-06 to establish a Forest Preservation Advisory Committee. This Bill proposes to amend Chapter 22-A, the Forest Conservation Law. The purpose of the proposed committee will be to:

“Advise the County Executive and Council on urban forestry policy issues; propose urban forestry policies, laws, and guidelines; recommend an urban forestry master plan; advise on a tree inventory; review and comment on urban forestry policies

and programs; seek funding for a sustained urban forestry program; promote a sense of community through urban forestry; communicate with other boards and residents about urban forestry issues; promote volunteerism; and act as a general resource for urban forestry-related issues.”

A Public Hearing has been set for September 19, and a Council T&E committee meeting set for September 21, 2006.

### **The Need for a Task Force on Urban Forestry Issues**

Urban forestry is a concept that includes not only street trees on public rights-of-way, but also neighborhood trees on private land in developed areas of the county. The Department of Public Works and Transportation, the Department of Environmental Protection and M-NCPPC have, to varying degrees and through a variety of direct and indirect programs, addressed issues such as street trees, protection of neighborhood trees during development, and the urban forest canopy. However there has been no comprehensive policy guiding decision-making in this general area.

As development pressure continues to increase and in-fill development and redevelopment becomes more common, the gaps between the varying programs are becoming more apparent, resulting in the loss of many significant neighborhood trees. This loss has a detrimental effect on community character, as well as on environmental concerns – such as temperature, water quality, air quality, stormwater management, and energy use – in the county. Clearly there is a need to address this issue.

### **Forest and Trees**

Although staff understands and supports the need to address urban forestry issues, we do not agree that Chapter 22-A (The Montgomery County Forest Conservation Law) should be amended as proposed at this time.

There is a distinct difference between the interconnected forested areas, which the existing Forest Conservation Law was created to protect and the important – but different – kinds of treed areas that can appropriately be called urban forestry. The application of the current law has an emphasis on forest, more than individual trees. “Forest” is defined by larger groupings of trees having a canopy, smaller trees and shrubs, ground layers and a forest floor, whereas urban forestry trees can be individual or groups of individual trees that have none of the other characteristics. Forest is measured in acres or square feet rather than by the individual trees. Indeed a large individual tree may be removed from a healthy forest without diminishing the overall acreage. However a similar tree may be removed from a neighborhood setting and create a significant impact.

These fundamental differences mean that protecting and enhancing these resources require differing strategies of protection and mitigation. Implementation methods may also be quite different.

Both resources need to be addressed; however our staff recommends that this be done separate from one another. The Forest Conservation Law as it stands should focus on forests. A new task force should address urban forestry resources not currently or adequately regulated under the current law. M-NCPPC Environmental Planning staff would be very interested in being actively involved in a new task force that would be addressing urban forestry issues.

Establishment of this new task force does not require an amendment to the current law. Indeed, this may "muddy the waters". In other cases where there is an identified need to address an important planning issue, the normal course of action has been to have the Council or Planning Board appoint a task force that can study the issue thoroughly and develop sound recommendations for changes to the County Code. Then, these proposed changes are reviewed and evaluated and – often – placed into law by the Council. There is frequently a provision in the new law for an appointed Advisory Committee to oversee the implementation of the law. An example of a program that was developed through the process just described is the county's Rustic Roads Program.

In conclusion, staff recommends that the Forest Conservation Law (Chapter 22-A) not be amended as this time. However, we do recommend that a new task force be appointed to study and address urban forestry issues. It may be appropriate in the future, based on the recommendations of the task force, to amend the County Code, but this should only be done after creation of a framework for addressing urban forestry issues is established.