



The Fairfax County Tree Commission
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035
703.324.1770

October 21, 2019

Fairfax County Board of Supervisors
c/o Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, VA 22035

Re: Considerations for Proposing Tree Legislation

Dear Members of the Board of Supervisors:

Thank you for your work in support of trees in Fairfax County. The Fairfax County Tree Commission is concerned about the loss of tree canopy due to in-fill development and single lot redevelopment. In 2007 the county sought and was granted authority to exercise greater control of tree planting and preservation during development, even when the development is by-right. This authority, found in the Code of Virginia section 15.2-961.1, was extended to all jurisdictions in planning district eight. To date, only Fairfax County has adopted an ordinance under this law, and only 18 other communities state-wide have used the authority found in the older section 15.2-961 to require canopy replacement during development. The Tree Commission has been advised that greater authority to the County to require more planting and protection of trees during development would most likely not be granted until existing legislation is more fully utilized state wide. We therefore recommend that the County ask the legislature to fund efforts to make 15.2-961 more widely known and adopted in the state. This could be couched as a simple step that would help achieve the Chesapeake Bay TMDL Phase III Watershed Implementation Plan, which was released in August 2019.

There are two other issues with expanding authority under 15.2-961. The first is space. In any development situation trees are competing with other uses for space, frequently making it difficult to meet existing canopy requirements. This is particularly true in in-fill and single lot redevelopment where a small house on a large lot is being replaced by one or more large houses. The trees then have to compete with the larger building(s), on-site storm water management, utilities, driveways, accessories and more for space.

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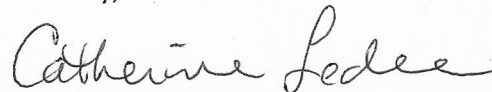
Tree Commission to Fairfax County Board of Supervisors

The county should use existing authority or seek additional authority to create more space for trees and preserve the health of existing urban canopy by widening setbacks, possibly with higher building heights. Additionally, the county should seek authority to restrict the size of rebuilds as a way of preserving the character of the neighborhood. The county should also work with other jurisdictions to get tree preservation into the stormwater toolbox as way of reducing the pressure to cut down trees for stormwater facilities. Any of these measures would reduce the competition for space that trees now face.

The second issue is time. Tree canopy requirements adopted under either 961 or 961.1 only have authority during the development process. Once the development is completed and the homeowner takes title to the property, they can do anything they want to the trees. The county should seek authority to require a permit to remove any tree over 14 inches in diameter or 44 inches in circumference measured 4.5 feet above ground. Such authority would have to be worded to preserve the right to practice forestry.

In seeking to preserve and expand the tree canopy, the Tree Commission counsels the Board of Supervisors to look beyond tree-focused laws and consider regulating land use in ways that create more space for trees.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Ledec".

Catherine C. Ledec
Chairman

cc: Environment Quality Advisory Council