



Council and stakeholders sort through two new county tree bills

Debate Begins on New Tree Conservation Legislation in Montgomery County

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Montgomery County's tree-lined streets are four-season wonders. They create allées of bursting blossoms in the spring and provide much-needed shade in the scorching summer, while offering fiery hues in the fall and a welcomed windbreak in the winter.

But unless two bills before the County Council are passed, the county is in danger of losing even more of its tree canopy, and having its roadways further denuded.

Before the council are two bills -- 41-12 and 35-12 -- intended to protect the county's trees. The first bill is an attempt to save trees that are in county rights-of-way during repair and construction projects. State law requires a removal permit.

What is new about Bill 41-12 is authority for the county to require protection for trees along our streets. The bill would require a permit from the county for removal of a healthy tree if there is no alternative but to remove it. A fee attached to a county permit will be used for a fund for replanting street and roadside trees. The fee would not apply to trees in severe decline or trees that are dying and hazardous to safety and property.

The second bill aims to save, and expand, the county's tree canopy by minimizing the loss of trees during development, especially in smaller projects and private lots. A fund would be set up to pay for new plantings. Regulations will be written to address tree protection and options for building around trees.

Pepco and other utility companies would not be subject to the bills.

While local environmentalists enthusiastically support 41-12, many worry that 35-12 does not go far enough.

The proposed penalties in Bill 35-12 for developers or homeowners who cut down trees, especially healthy, old, well-established ones, are far too low, according to some. Environmentalists would like to see stronger incentives to preserve older trees written into the bill.



Healthy street trees that are protected during work around the critical root zone stand a better chance of longer term survival.



These mature trees are in a protected area near the Discovery Building in Downtown Silver Spring

“The bill needs work,” said Ginny Barnes, adding that the bill needed to allow “additional mitigation options such as credit for protecting trees and credit for replanting shade or significant trees onsite. “I would like to see more than the tree fund in Bill 35-12. Protective tree legislation is a big step toward changing perceptions about the value of trees to ecological balance, mental and physical health and public safety,” Barnes said.

While the county overall has a healthy tree canopy of almost 50 percent, many urban and developed areas have far fewer trees. The recommended canopy level for urban areas is 25 percent, according to the Maryland-National Capital Park and Planning Commission, but many areas of Montgomery County don’t come close.

The White Flint area clocks in at 19 percent, while downtown Silver Spring has only a 14 percent tree canopy and the Montgomery Hills neighborhood a mere 8 percent. The Long Branch community has the second lowest canopy level, at only 13 percent.

“We are amazed to see the destruction of hundreds of mature trees around the local area,” said Paul Hlavinka, who spoke on behalf of the Muddy Branch Alliance at a Council hearing on January 17th. “We cannot stay ahead of the curve and expect citizens to plant more trees than are taken down.”

Hlavinka and others say it is time the county enacted these tree protections. In 1991, the county passed the Forest Conservation Law, which regulates management of forests during development on properties that are larger than 40,000 square feet. But in the past two decades, development has shifted from larger lots upcounty to smaller lots in more urban and densely populated areas. The disposal of trees on these smaller developments is unregulated, which supporters hope Bill 35-12 will remedy.

“We stand at a crossroads with respect to climate change,” said Arlene Bruhn at the council meeting. “More traffic makes our urbanizing areas centers for pollution. Large expanses of brick and concrete transform densely built commercial zones into unhealthy heat islands. We need trees to stay cool in the summer and absorb CO2. The cheapest way to mitigate climate change is to plant trees.”

The problem is that a tree does not always equal a tree. As Mark Buscaino, executive director of Casey Trees and a certified arborist, pointed out, replacing a 30-inch diameter tree with a sapling is not a fair trade.

The proposed 35-12 would require payment into a Tree Conservation Fund for the planting of trees when a Sediment Control Permit is required for land and canopy disturbance on a construction site.



Mark Buscaino

“Very few street trees survive the 60-70 years needed to reach a diameter of 30 inches.” Buscaino wrote in a letter to the council. “In DC, only five percent of the city’s 130,000 street trees are 30 inches in diameter or greater.”

To be sure, not everyone believes the county needs additional laws and regulations. Renewing Montgomery, a group made up of small home builders, opposes both bills, stating on their website that the bills “will create new restrictions on their property rights and will likely have unintended consequences that are impossible to predict.”

The building industry has shown strong opposition to both bills. Industry representatives have sent e-mails to residents to stir fears of property rights invasion and try to turn the tide against both tree bills. They developed a petition as a counter to [a pro-tree bill petition set up by supporters of both tree bills](#).

“It’s ironic. Builders are presenting the very same arguments that they presented when they opposed the county Forest Conservation Law in the early 1990s,” said Silver Spring resident Caren Madsen, who is among those in favor of enacting stronger tree legislation.

“Builders who opposed the FCL in 1992 now say that law is great and working just fine,” said Madsen. “They’re presenting the FCL as another reason not to adopt laws to adapt to the changes in development patterns we’ve seen in the county. Change is tough to accept at times, but 20 years from now, our builders will applaud the success of these two new tree bills.”

Tree preservation and a thriving economy should not be mutually exclusive, others say. In fact, they are closely linked. Trees are just as essential to our county as roads, bridges and hospitals are, said Caroline Taylor, of the Montgomery Countryside Alliance. All are part of a strong infrastructure.



Caroline Taylor

“Ultimately success will depend on a fundamental shift in the way we view trees. We must cease viewing trees as impediments, nuisances or enemies of profit,” Taylor wrote in a letter to council. “They are part of our supporting infrastructure and must be afforded the appropriate regard, protection and maintenance.”

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