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May 6, 2011

Isiah Leggett  
 County Executive  
 Office of the County Executive  
 101 Monroe Street, 2nd Floor  
 Rockville, Maryland 20850  
 County Executive

Re: Reforestation

Thank you for your letter of April 19, 2011. We share your goal of having a joint proposal for amendments to the reforestation bill covering exempt lots by July 1. We will do our part in committing the time and resources toward a satisfactory agreement with representatives from the environmental organizations.

As we move forward in our negotiations we took note of the fact that the current reforestation bill played a key part in the reforestation of the county and made a significant contribution to the tree canopy of the county. Based on the recently completed study by Park and Planning concerning tree canopy, we find that nearly 50% of the county has tree canopy. This does not include the sites planted for reforestation or set aside for afforestation. If we count the future canopy these sites provide, the canopy cover figure would be much higher. This shows the success of the reforestation effort of the county.

We note that according to this study many of our more developed areas have impressive canopy cover such as the Bethesda central business district with 24% canopy cover and 33% in the Clarksburg Town Center. Even the recently redeveloped Silver Spring central business district has 14% coverage which does not include recently planted trees.

In our meetings with the environmental representatives we discussed our position that the original negotiations concerning the reforestation bill purposely excluded lots smaller than one acre to recognize the difficulty in saving trees on smaller lots, the impact the law would have on individual lot owners who are generally not builders or developers and the fact that after building on small lots, builders generally planted new trees as part of a landscape plan. Nonetheless the environmental community expressed their concern over the loss of canopy, the loss of mature trees and the desire to see new trees planted in our developed communities.

Additionally in our discussion we described the regulations and procedures builders followed when constructing a new home on a small lot. Of particular note, the significant underground structures required for storm water management. This resulted in a letter signed by Conservation Maryland and the Audubon Naturalist Society to DPS and DEP requesting consideration for trees to be counted as part of the storm water management system.

**BUILDING HOMES, CREATING NEIGHBORHOODS**

Representing Calvert, Charles, Montgomery, Prince George's and St. Mary's Counties and Washington, D.C.  
 Affiliated with the Maryland State Builders Association and the National Association of Home Builders



Our collective review of the FCL amendments proposed by DEP noted that in summary, they proposed a canopy based fee that is determined by the amount of disturbance within a canopy and that the fee would fund reforestation by the county. As to tree conservation on-site, the notion was that a builder would avoid cutting down trees to avoid the canopy fee and that this would act as an incentive. About the proposed FCL amendment we collectively asked:

- How can we encourage tree replanting on-site?
- How can we give credit to the builder for re-planting on-site?
- How can we reduce or eliminate additional administrative reviews?
- How can we minimize costs to the homeowner and to the government?
- How do we minimize or eliminate the need to establish, administer and manage a new fund?
- How can we keep tree planting in the hands of the builder and not in a government agency?

We are especially sensitive to minimizing additional costs to administer a program that would have to be absorbed by DEP, DPS or both or would have to be covered by a new fee paid by the homeowner or lot owner. We are additionally sensitive to raising any costs or adding any time to the homebuilding operation.

Over the last few weeks we have made significant progress in overcoming some of the issues with the "canopy" bill and are now working to finalize the terms of an agreement. The principals behind this agreement include:

- Adding no new administrative procedures or reviews
- Minimizing administrative costs and homebuilding costs
- Encouraging tree conservation on site
- Eliminating the need for any additional fees
- Keeping it simple to enforce and easy to meet
- Encouraging tree conservation as a storm water management technique

Hopefully we will have an agreement of the terms within the next few weeks. It is our mutual desire to help in the conservation of trees even on the smaller lots.

Yours Truly,



S. Robert Kaufman  
Associate Director, Government Affairs

CC. Bob Hoyt, Director, Department of Environmental Protection  
Jennifer Hughes, Director, Department of Permitting Services  
Forest Conservation Working Group