MC/PG 107-23

Testimony supporting

REPEAL OF THE 2015 FAIRNESS IN ZONING ACT (MC/PG 107-23)

By Daniel Smith, president, Friends of Lower Beaverdam Creek, Cheverly, MD

And for Friends of Sligo Creek

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On behalf of myself, Prince George’s based, Friends of Lower Beaverdam Creek, and Friends of Sligo Creek I urge the Montgomery and Prince George’s County delegations to support MC/PG 107-23, the REPEAL OF THE 2015 FAIRNESS IN ZONING ACT

This bill will restore important legal rights to Prince George’s County residents to challenge bad development in the courts. These rights – currently protected for residents of Montgomery County -- were unfortunately stripped from Prince George’s residents.

In 2015, the Fairness in Zoning Act (Ch. 365) stripped the legal rights of most Prince George’s County residents to take developers to court regarding zoning issues. This right had been in existence since the 1990s. The 2015 law removed the phrase “taxpayer” and replaced it with “aggrieved,” meaning that only residents in sight of a property have the right to take developers to court. The reduction of prior rights has resulted in substantial adverse impacts that are especially concerning as projects have ballooned in size and potentially adverse impacts such as forest loss and flooding are amplified by the effects of the climate change crisis.

There has been a substantial amount of development that has occurred in the county since 2015 without the opportunity for residents to seek court review of projects with questionable legal merits. And we are definitely seeing more large projects that are pushing legal boundaries that challenge community standards. The 2015 repeal seriously restricted and compromised a cherished checks and balances system.

One example that I know well is the development of a 19-acre site for a package distribution warehouse adjacent to the severely compromised Cabin Branch stream just upstream from the Cheverly Metrorail Station. (Cabin Branch flows into Lower Beaverdam Creek here which then joins the Anacostia River watershed.) A far too large building was proposed for the site resulting in the clear cutting of nearly 4 acres of floodplain forests. These forests are of critical importance for numerous public and environmental health reasons, including the prevention of flooding of Route 50 just downstream from the development. Flooding here has resulted in the complete shutdown of this major highway artery in the county and for the nation’s capital multiple times in the past five years.

I believe that right-sized development could have and would have occurred on this site --resulting in the retention of those 4 acres of floodplain forests -- if we had in place the standards that currently apply in Montgomery County that do not unfairly restrict legal standing to those living within 1,000 feet of a development, no matter it’s size and broader impact.

While this is just one example, the extensive and detailed report on forest loss in Maryland over a recent 5-year period – commissioned by the state legislature and published just last month for by the Hughes Center – shows that development such as this is happening throughout our county. The study documents an alarming loss of forests and tree canopy in the state in recent years. By far the largest losses are a result of *development* and the largest jurisdiction with the greatest losses by far (and the lease successful reforestation efforts) is Prince George’s. This fact alone should be compelling reason to restore the previous rights of our county residents to initiate court review of important and legitimate aspects of proposed development.

We applaud Del. Joseline Pena Melnyk and Del. Mary Lehman for co-sponsoring this bill to restore the taxpayer-standing language which will again give Prince George’s County residents the best standing law in the state, putting it on equal footing with Montgomery County’s taxpayers. We urge other members of the delegations to also co-sponsor the measure.

Thank you.

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