October 19, 2022

Charles County Board of County Commissioners

200 Baltimore Street

La Plata, MD 20646

Attn: Mr. Reuben B. Collins, II, Esq. – President

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| Re: | Forest Conservation Ordinance Update  July 18, 2022 Public Hearing |

Dear President Collins and Commissoners:

The Maryland Building Industry Association understands the important contribution of forests toward air and water quality, recreational opportunities and overall quality of life. However, the need to maintain forests must be carefully balanced with other public policy objectives.

The current draft of the Forest Conservation Ordinance includes positive changes that clarify technical and process requirements. However, we are concerned several proposed changes are not consistent with the Code of Maryland Regulations (“COMAR”) and others will have the unintended consequence of disincentivizing development in areas the Comprehensive Plan designates for development. Compatibility between various land use documents is crucial to achieving the County’s overall goals.

The draft ordinance should be revised to be consistent with COMAR, remove the penalties for reconfiguring on-site forest conservation easements and remove designated development areas from the proposed Priority Forest Retention Area. In addition, the proposed limits of the Priority Forest Retention Area should be reevaluated to ensure compatibility with the Bryans Road Subarea Plan and the Western Charles County Technology Corridor. Our specific comments and recommendations are summarized below.

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Line 14 – The proposed change to the definition of OFF-SITE is inconsistent with the COMAR definition. The current Ordinance defines OFF-SITE as **“Outside the limits of the area encompassed by a TRACT”** which is consistent with COMAR.The definition should remain as stated in the current Ordinance.

Line 27 – The proposed change to the definition of ON-SITE is inconsistent with the COMAR definition. The current Ordinance defines ON-SITE as “**Within the limits of the area encompassed by a TRACT including an area classified as a One-Hundred-Year-Floodplain”** which is consistent with COMAR. The definition should remain as stated in the current Ordinance.

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Line 29 – To clarify when payments are required Section D. should be revised to read as follows: “**If Afforestation cannot reasonably be accomplished On-site or Off-site, the requirement to pay into a Forest Conservation Fund shall be satisfied upon approval of the Final Forest Conservation Plan and prior to Department approval of a permit for any land disturbing activity”.**

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Line 12 – For consistency throughout the Ordinance Section F. should be revised to read as follows: **If Afforestation cannot reasonably be accomplished On-site or Off-site, the requirement to pay into a Forest Conservation Fund shall be satisfied upon approval of the Final Forest Conservation Plan and prior to Department approval of a permit for any land disturbing activity.**

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Line 28 – The proposed changes to Subsection (4)(b) increase the offsite retention and planting for projects located in the Development District when the offsite location isn’t within the same watershed as the project. This change would be a disincentive to developing in the areas targeted for development by the Comprehensive Plan. **This section should be revised to require forest retention at a 2:1 ratio and planting at a 1:1 ratio as stated in the current Ordinance.**

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Line 25 – For consistency throughout the Ordinance Section C. should be revised to read as follows: **Money contributed to the Forest Conservation Fund shall be paid prior to Department approval of a permit for any land disturbing activity.**

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Line 26 – Section A.(3) establishes new criteria for amendments to Final Forest Conservation Plans with recorded protective agreements. Typically these revisions consist of a reconfiguration or relocation of a recorded forest conservation easement. As currently proposed the criteria penalizes applicants seeking to revise an easement. The proposed criteria would require an applicant to protect an onsite area of higher retention value and equal area in order to modify an existing easement. Since all high priority forest areas within a property are the first priority for protection, applicants would be forced to protect an onsite area 1.5 times larger than the area modified. To incentivize protection of onsite areas this section should be revised as follows:

**(3) a.** “**Another on-site area of at least the same size that is an equal or higher priority area of Retention, in accordance with the sequencing requirements in 298-15.C; or”**

**(3) b. “Another on-site area of at least the same size that is a lesser priority area of Retention, in accordance with the sequencing requirements in 298-15.C at a one to one and one half (1:1.5); or”**

**(3) c. “An off-site area at the required off-site ratio times a one to one and one half (1:1.5); or”**

**(3) d. “A combination of mitigation areas approved by the Planning Director.”**

Appendix A

The proposed Priority Forest Retention Area includes land near the Maryland airport and Route 210 zoned for development. The Board of County Commissioners recently established the Western Charles County Technology Corridor to attract targeted technology businesses and complimentary support services along MD 210 and MD 227. Designating this same area a Priority Forest Retention area would conflict with the economic development goals of the technology corridor. Lands zoned for commercial and medium to high density residential development should be removed from the Priority Forest Retention Area. Also, the map should be revised to be consistent with the goals and objectives of the new Bryans Road Subarea Plan and Western Charles County Technology Corridor.

The Maryland Building Industry Association appreciates the opportunity to present comments and recommendations on the proposed updates to the Forest Conservation Ordinance. We are available to discuss questions the Planning Commission may have regarding our comments.

Sincerely,

Douglas W. Meeker

Charles County Chapter Chair - Maryland Building Industry Association

cc: Griffin Benton, VP Government Affairs