



MARYLAND ORNITHOLOGICAL SOCIETY



Howard County Bird Club A Chapter of the Maryland Ornithological Society

February 20, 2017

Howard County Council
3400 Courthouse Dr.
Ellicott City, MD 21043
akittleman@howardcountymd.gov

Dear Howard County Council:

The Maryland Ornithological Society and its Howard County chapter, the Howard County Bird Club, oppose CB 016-217, "An Act Amending PlanHoward 2030." While we appreciate the difficulty of farming in Howard County, we do not view the conversion of farmland into housing developments as supportive of farming. We urge the County to seek innovative ways to keep farmland as farmland, by promoting profitable forms of agriculture, farm-to-table efforts, agrotourism. These would all preserve farmland as farmland, retain open space, and save wildlife habitat. We also believe this bill would set a precedent, and encourage others to seek to remove their property from Tier IV classification.

The Maryland Ornithological Society (MOS) is a statewide nonprofit organization established in 1945 and devoted to the study and conservation of birds. Currently we have 15 county-based chapters and 1,600 members. The Howard County Bird Club (HCBC) was established in 1975, and has over 200 members. We will detail other concerns with the Amendment below.

The Amendment Contradicts PlanHoward 2030

The Amendment contradicts two of the initiatives of PlanHoward 2030, specifically the Environmental Protection initiative and Resource Protection initiative. Under Environmental Protection, implementation of the Watershed Implementation Plan would be compromised by large developments on septic systems. Recent studies have shown that even low-density development in rural areas can contribute significant amounts of nitrogen to the Chesapeake Bay.¹ Howard County-based septic systems as a source of nitrogen in the Bay grew by 15,000 pounds between 2012 and 2013, after remaining steady at about 75,000 lbs. from 2007 until 2012.² This amount would only grow with the increased development that would be permitted under the proposed Amendment. Furthermore, increased impervious surfaces and associated runoff from large developments would further imperil efforts to clean up the Bay. Impervious surfaces covering as little as 10% can lead to stream degradation and loss of fish and larvae.³ Increased nutrients from runoff of impervious surfaces will lead to more algae blooms that block sunlight from reaching underwater grasses,⁴ which feed waterfowl. Algal blooms create dead zones in the Chesapeake Bay, which affects both commercial and recreational fishing.⁵

Under Resource Conservation, protecting the land and character of the Rural West would become problematic in the face of large developments, which would be permitted under the Amendment. The PlanHoward 2030 Tier IV areas largely fall within the Upper Patuxent Rural Legacy Area, established in 2007.⁶ The Rural Legacy Program "was created in 1997 to protect large, contiguous tracts of Maryland's most precious cultural and natural resource lands through grants made to

local applicants.” The Upper Patuxent Rural Legacy Area consists of 11,201 acres, and “builds upon established private, county, and state preservation programs. By protecting several groundwater resources and feeder systems, water quality of the Patuxent River is improved. Land protection in the Area creates contiguous tracts of preserved farms and environmentally sensitive lands.”⁷ Large-scale development allowed under the Amendment would be incompatible with the Rural Legacy Area, which has been on the books for almost ten years now. It could also endanger funding provided by the Rural Legacy program.

Rural Landscape and Wildlife Habitat

Howard County’s seal depicts a shock of wheat, a hand plow, and a harrow, with rolling hills in the background.⁸ Such landscapes serve as habitat to a suite of birds, such as American Kestrel, Vesper Sparrow, Grasshopper Sparrow, Bobolink, and Eastern Meadowlark, which continue to experience precipitous declines due to loss of habitat, in part due to suburban sprawl,⁹ which the Amendment would encourage. Massive development in western Howard County would be inconsistent with the image depicted on the County seal, and also be deleterious to the continued presence in Howard County of such the above-mentioned field birds.

In spite of our opposition to the Amendment, we also feel that a means must be found to compensate property owners for their loss of property value and equity, and encourage developing a means of compensation. But we believe that the rural character of western Howard County should not be sacrificed, nor should pollution in the Chesapeake Bay be allowed to increase, in order to compensate property owners for any loss in value.

For these reasons, MOS and Howard County Bird Club believe the Amendment is not in the best interest of the citizens of Howard County and the Bay. We urge the County to preserve this landscape, deemed precious enough to enshrine in the County Seal, and protect it from massive development of the irreplaceable rural habitat of many and diverse plants and wildlife.

Sincerely,

Kurt R. Schwarz
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¹ Shields, et al, Streamflow distribution of non-point source nitrogen export from urban-rural catchments in the Chesapeake Bay watershed, *Water Resources*, #44.

² Causes of Nitrogen Pollution, Howard County, Maryland BayStat, 2014,
<http://baystat.maryland.gov/causes-of-the-problems-map/>

³ USEPA Office of Water Recovery Potential Screening Website, Watershed Percent Impervious Cover, 09.01/2011, <https://www.epa.gov/sites/production/files/2015-11/documents/rp2wshedimperv1109.pdf>

⁴ Chesapeake Bay Program, Nutrients,
<http://www.chesapeakebay.net/issues/issue/nutrients#inline>

⁵ Malmquist, David, New study shows ‘dead zones’ impacts on Chesapeake Bay fishes, *Marine Ecology Program Series*, Virginia Institute of Marine Sciences, July 8, 2013,
<https://phys.org/news/2013-07-dead-zone-impacts-chesapeake-bay.html>

⁶ Upper Patuxent Rural Legacy Area Map, 2007,
<http://dnr2.maryland.gov/land/Documents/RuralLegacy/UpperPatux.pdf>

⁷ Maryland’s Rural Legacy Areas, Maryland Department of Natural Resources,
<http://dnr2.maryland.gov/land/Pages/RuralLegacy/All-Rural-Legacy-Areas.aspx>

⁸ Howard County, Maryland, Seal, *Maryland Manual On-line*, September 29 2015.
<http://msa.maryland.gov/msa/mdmanual/36loc/how/seal/html/howseal.html>

⁹ Grasslands, *State of the Birds 2016*, <http://www.stateofthebirds.org/2016/habitats/grasslands/>



MARYLAND LEAGUE
OF CONSERVATION VOTERS

To: Howard County Council
From: Benjamin Alexandro, MD LCV
Date: 2/21/2017
Re: Testimony for CB16-2017. –Please Oppose

Good evening Honorable Howard County Council Members,

My name is Ben Alexandro. I am the water policy advocate for the Maryland League of Conservation Voters, representing over 550 supporters in Howard County and many more voters. I am also the Maryland State Lead for the Choose Clean Water Coalition, a coalition of over 200 mid-Atlantic nonprofits interested in water issues. On behalf of our voters, supporters and many of our partner organizations, I urge you stand against the amendments to the Growth Tiers.

I was in front of the planning board almost a year ago, urging the same thing for the same reasons. This proposed amended map would be detrimental to this county's water, rural character, and financial stability. Major residential developments on septic systems pollute local waters, fragment agricultural and forest land, and undermine the local farm economy. It burdens local governments with disproportionately high costs for providing services to these pockets of rural development. Howard County adopted protections to address these issues and comply with Maryland's Sustainable Growth and Agricultural Preservation Act of 2012, but the proposed change is a step in the wrong direction. Last year, the Planning Board in a 4-1 vote reaffirmed the value of the current map in GPA 2016-01.

Building on septic systems outside the legal maps and against Plan Howard 2030 was a bad idea a year ago, and it is a bad idea now. Two things have happened in the last year that will reaffirm why this proposal should not pass. One is that MDE dropped the requirements that septic systems have to use best available technology. This means that these homes can go in with outdated septic system designs that will leak more nitrogen pollution into local waters. The second is the disaster in Ellicott City. It was a wakeup call that showed we all have to be mindful of those downstream when developing. The flooding was a force of nature, and areas can flood even if the whole watershed is undeveloped. But paving over areas upstream exacerbate floods and funnels water downstream rather than letting water soak into the ground as occurs in forests and agriculture areas. We have the opportunity to plan smarter growth for the future and for more of our watersheds.

A bad change could start a bad precedent with ripple effects throughout the state. Other counties might see this amendment as a sign that they do not have to keep their commitments to clean water. I urge you to let Plan Howard 2030 do what it was intended to do: create a sustainable future for Howard County. Please oppose CB16-2017. Thank you for your time.

Sincerely,
Ben Alexandro
Maryland League of Conservation Voters
baalexandro@mdlcv.org

86 Maryland Ave, Annapolis, MD 21401
(410) 280-9855

Testimony of Theodore F. Mariani RE CB 16 Tier IV

When the Tier IV regime was first introduced I testified against this unnecessary confiscation of property rights

My opinion has not changed but rather been reinforced by subsequent events.

When the County passed the final version of Tier IV regulations it allowed a window for land owners to file for development and be "grand fathered" in under the prior development regulations. Several land owners that had no immediate plans to develop felt compelled to move ahead quickly and filed to preserve their rights.

Prompted and accelerated by the Tier IV threat a new 44 home subdivision is now poised to start in Lisbon

Other land owners not anxious to rush the development of their land held back and as a result lost their development rights. Thus a small group of property owners have been severely penalized for not rushing to develop their land.

There is an inequity in this outcome that need not have happened if the original Tier IV legislation had not been vetoed. You now have an opportunity to rectify that action.

You should be guided by the fact that Howard County, thru its fine Ag Pres program, cluster development regulations and density exchange option has already met the mandate of the state to limit residential development and protect the bay.

What damage if any would result from enacting CB 16?

The number of units that could be built under provisions of CB 16 are only 215 more than under the current Tier IV regime.

This represents approximately 1 % of the potential housing inventory in the RC and RR zones.

Further the amount of land that would be utilized for home construction because of cluster provisions would actually be 160 acres less than under the current Tier IV regime.

It should also be noted that under the current Tier IV regulations sites of less than 20 acres are not impacted since these can be developed to the maximum with 4 three acre lots. On sites of over 20 acres the land owner has the right to develop up to 4 three acre lots and is free to do what ever he pleases with the remainder of his land, including the potential for future development. Under CB 16 all sites over 20 acres would have to be developed under a cluster regime which mandates that the remainder parcel is enjoined by a covenant that preserves the site in agriculture or environmental open space in perpetuity .

In addition these 215 units would have an imperceptible impact on the environmental quality of the bay , the underlying justification for the original Tier legislation.

Does it make sense to severely punish a few land owners who have maintained their farms, paid their taxes and waited patiently to exercise the right to develop their land just to advance a concept that has no meaningful benefit ?

Please be guided by fairness and vote yes on this bill.



CHESAPEAKE BAY FOUNDATION
Saving a National Treasure

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February 21, 2017

The Honorable Jon Weinstein, Chair
Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

RE: CB16-2017
Amendment to *PlanHoward 2030* to amend Growth Tiers

Dear Chairperson Weinstein and members of the County Council:

The Chesapeake Bay Foundation (CBF) appreciates this opportunity to comment on CB16-2017, which would amend *PlanHoward 2030* to alter the Growth Tiers. On behalf of our 5,500 members residing in Howard County, **CBF strongly opposes these proposed amendments and respectfully requests that the Howard County Council vote against CB16-2017.**

The map and text amendments in CB16-2017 are inconsistent with long-established planning approaches in Howard County and appear to conflict with several provisions of state law. For these reasons, the Howard County Planning Board recommended against adopting these amendments in April of last year. CBF is concerned that the administrative testimony provided to you fails to mention the Planning Board's recommendation against these changes. CBF commented in detail on the amendment package before the Planning Board; our comments are enclosed for the Council's consideration and the record on this bill.¹

CB16-2017 would allow for excessive high-polluting development activity that could place the Chesapeake Bay and local waters in Howard County at risk for on-going violations of water quality standards. This type of development generates disproportionately high levels of nutrient pollution from stormwater runoff and septic systems. With the state no longer requiring nitrogen removal technology on new septic systems, the impact of this development on water quality could be up to 10 times greater than development in areas planned for growth and served by public utilities. Unless and until the state adopts an offset policy for growth,

¹ CB16-2017 appears to have deleted the reclassification of properties located in the Rural Legacy Area from Tier IV to Tier III. The remaining amendments appear to be substantively the same.

Howard County is responsible for remediating new pollution loads from development at public expense.

As noted in the staff report to the Planning Board, the express purpose of the amendments in CB16-2017 is to “return development rights previously eliminated.” This stated rationale is not an appropriate or legally valid standard by which to designate tiers. To do so elevates ‘development rights’ above all other planning visions, goals, and associated land use plans that the Howard County Council has established to protect and enhance water quality and quality of life. It results in a map that does not comply with state planning statutes and it puts the health of Howard County’s rivers and streams at increased risk.

In contrast, the growth tiers currently included in *PlanHoward 2030* represent a careful and extensive deliberative process conducted by the Howard County Council just four years ago. In addition to the adopted growth tiers, CBF’s understanding is that this process resulted in an increase in local land preservation funding to assist landowners who need access to equity in their land beyond what construction of a minor subdivision, application of grandfathered lots, the use of the County’s Density Exchange Option, or the farming operation itself can provide. *PlanHoward 2030* strikes an appropriate balance that offers access to land value while effectively protecting the county’s rivers and streams.

For these reasons, CBF urges the Howard County Council to reject CB16-2017 and instead stand behind the community-driven approach to growth and preservation that is reflected in *PlanHoward 2030* as currently adopted. Please do not hesitate to contact me at 410-543-1999 x4501 or efisher@cbf.org if you have any questions or to discuss this matter in further detail.

Very truly yours,



Erik Fisher, AICP
Maryland Land Use Planner and Assistant Director



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AILEEN BOWDOIN TRAIN

April 7, 2016

Mr. Bill Santos, Chair
Howard County Planning Board
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

RE: General Plan Amendment 2016-01
Sustainable Growth and Agricultural Preservation Act of 2012

Dear Chairman Santos and members of the Board:

The Chesapeake Bay Foundation appreciates this opportunity to comment on General Plan Amendment 2016-01, which would alter Howard County's currently adopted Tier Map pursuant to the Sustainable Growth and Agricultural Preservation Act of 2012. **We are writing to express our concern that the proposed map and text amendments conflict with long-established local planning approaches in Howard County, as well as several requirements established for tier mapping in state law.** As a result, the proposed map would allow for excessive high-polluting development activity that could place the Chesapeake Bay and local waters in Howard County at risk for on-going violations of water quality standards. **We respectfully request that the Planning Board recommend against General Plan Amendment 2016-01.**

Established more than 40 years ago, the Chesapeake Bay Foundation is the largest non-profit organization working solely for the protection and restoration of the Chesapeake Bay. We currently represent more than 200,000 members and maintain offices and educational facilities across three states and the District of Columbia. We represent approximately 5,550 members residing in Howard County.

Developing and implementing a tier map that will reduce high-polluting growth patterns in Howard County is critical to the success of local and regional water quality efforts. The Chesapeake Bay, along with the Patapsco, Triadelphia Reservoir, and Centennial Lake watersheds in Howard County are listed on the Federal 303(d) list of "impaired" waters due to excess nutrients and sediment. This means that these waterways are receiving so much of these pollutants that

they can no longer function properly. In addition, a number of properties that would be reclassified to Tier III are located in watersheds for high quality “Tier II” waters, which are subject to the state’s anti-degradation policy.¹ Some of these watersheds, including the South Branch of the Patapsco River, Carroll’s Branch, and several un-named tributaries of the Patuxent River and Rocky Gorge Reservoir have no assimilative capacity remaining.

Adoption of the proposed amended map would likely lead to increased degradation of these impaired and protected watersheds. Low density, sprawling development generates up to five times more pollution per household via runoff and septic systems than compact forms of growth.² Under the Bay cleanup (TMDL) framework, new or expanding loads to an impaired water body must be accounted for and fully offset so there is no increase in pollution.³ As a result, Maryland’s Phase I WIP set forth an “essential” strategy to “encourage development that will result in relatively small increases in loads to accommodate growth” because “it is difficult and costly to offset loads”.⁴ Maryland’s Phase II WIP affirmed this approach.⁵

The threat to our waterways from high-polluting, sprawling growth on septic systems was a driving force behind passage of the Sustainable Growth and Agricultural Preservation Act of 2012. Also known as SB 236 or simply “the septics bill”, the legislation stands as a critical component to Maryland’s strategy for achieving and maintaining pollution load caps for nutrients and sediment. The state’s Phase II Watershed Implementation Plan specifically lists SB 236 among “legislative and policy initiatives that support Maryland’s efforts to meet the goals of the Chesapeake Bay TMDL,”⁶ and asserts that “new septic systems shall meet all applicable Maryland law and regulations...”⁷

The Chesapeake Bay Foundation was one of the many stakeholders including county and municipal leaders, agriculture and business interests, and others that

¹ See COMAR 26.08.02.04

² Maryland Phase I Implementation Plan, p. 3-3

³ 40 CFR § 122.4(i)

⁴ Maryland’s Phase I Watershed Implementation Plan, p. 3-6

⁵ Maryland’s Phase II Watershed Implementation Plan – Main Report, p. 46

⁶ *Ibid.*, p. 48

⁷ *Ibid.*, p. 47

participated in the state task force that led to passage of SB 236. We believe, as do most task force members and others representing diverse interests who have closely followed this process, that the statute achieves an appropriate balance of environmental protection and local autonomy without compromising private property rights. In regard to the latter, we understand that some landowners are concerned about a potential loss of value due to classification in Tier IV. The state Task Force carefully evaluated this concern and failed to find conclusive evidence that property values would decrease. In contrast, experience teaches that rural property values often hold steady or increase compared to those in jurisdictions that allow more development in rural area.^{8,9} Our understanding is that the County Council set aside substantial land preservation funding for landowners who believe they have been affected by the Tier IV designation, and that much of that funding is still available. In addition, substantial development capacity remains under SB 236 even in the most restrictive tier. Existing buildable lots are not affected by SB 236, nor are “grandfathered” development proposals, as well as any landowner who wishes to develop a minor subdivision. Howard County’s Density Exchange Option program is not affected, meaning that landowners in Tier IV can still sell development rights to builders for use in areas planned for growth.

We respect the local authority of Howard County to delineate tier areas provided that the resulting map is consistent with the requirements enumerated in the State Land Use Article. In the past, Howard County has worked hard to plan for and designate growth areas, rural conservation areas, a Rural Legacy Area, and other land use designations that help preserve the county’s economic and environmental integrity. Under the Land Use Article, Howard County’s adopted comprehensive plan, zoning, Water and Sewer Master Plan, and Rural Legacy Area, along with key criteria provided in Section 1-508 of the Article provide the proper objective basis for the county’s decision to apportion land into tiers.

⁸ Perry, E. Presentation to the Task Force on Sustainable Development and Wastewater Disposal. *Downzoning and Land Value: Statistical findings from comparing four pairs of counties*. September 12, 2011.

⁹ Maryland Department of Planning: *Report to the General Assembly on Implementation of SB 236*, p. 3.

Unfortunately, we believe the proposed tier map violates the law and as a result fails to deliver protections for Howard County's waterways and rural areas needed to comply with local and Chesapeake Bay pollution reduction goals. We are greatly concerned that the staff report prepared for your review does not fully evaluate the proposed amendment in light of clear state statutory requirements.

CBF has reviewed General Plan Amendment 2016-01 in light of Section 1-508 of the Land Use Article and identified the following deficiencies:

Rural Legacy Areas

Subsection (a)(4)(iii) of the state statute requires that land within Rural Legacy Areas be classified as Tier IV. There is one Rural Legacy Area (RLA) in Howard County, known as the Upper Patuxent RLA. Comparing the RLA boundaries to the proposed tier map indicates that a number of properties within the adopted Rural Legacy Area would be misclassified as Tier III area.

Areas Planned or Zoned for Protection, Preservation, or Conservation

Subsection (a)(4)(i) requires that "areas planned or zoned by a local jurisdiction for land, agricultural, or resource protection, preservation, or conservation" be classified as Tier IV. Map 6-2 in *PlanHoward 2030* makes a clear distinction between areas targeted for "low density development" and areas targeted for "rural resource" conservation on the future land use plan.¹⁰ These land use and zoning classifications reflect a longstanding policy in Howard County to focus large lot, rural residential development along the periphery of the Planned Service Area (PSA). The purpose statements of each zone reflect the clear distinction between an area planned to remain agricultural (RC-zoned areas) and an area planned for rural residential development (RR-zoned areas):

The purpose of the RC is 'to conserve farmland and to encourage agricultural activities, thereby helping to ensure that commercial agriculture will continue as a long term land use and a viable economic activity within the County.'

¹⁰ *PlanHoward 2030*, p. 69

The purpose of the RR is “to allow low density residential development within a rural environment...”¹¹

The RC classification is unambiguously consistent with the state criteria for Tier IV designation. *PlanHoward 2030* points out the high degree of consistency between the purpose statements in the RC and RR zoning categories and the criteria for Tier IV and Tier III designation, respectively:

The purpose statements in the RR and RC zoning districts clearly reflect the planning objectives for these two growth tiers, and the exceptions relate to specific exemptions and inclusions envisioned by Senate Bill 236.¹²

Deleting this sentence from the plan (as proposed by the amendment) does not make it any less true, nor does it excuse Howard County from clear requirements in state law. Comparing the RC boundaries to the proposed tier map indicates that more than 2,000 acres of land within areas planned and zoned for agricultural and resource protection would be misclassified as Tier III area, in a manner that appears akin to spot-zoning.

Agricultural Lands, Forest Lands, and other Natural Areas

Section (a)(4)(ii) requires that “areas dominated by agricultural lands, forest lands, or other natural areas” be classified as Tier IV. Guidance from the Maryland Department of Planning (MDP) provides a recommended methodology for identifying these areas and notes that other acceptable methods exist.¹³ However, we found no evidence in the staff report that any method was used to check the proposed amended map for consistency with this requirement.

MDP has published a map of areas dominated by farm and forest land to assist local jurisdictions in preparing tier maps. Comparing this map to the proposed amendment, CBF identified multiple cases where areas that are dominated by farm or forest land would be misclassified as Tier III areas if the amended map

¹¹ *Ibid.*, p. 34

¹² *Ibid.*, p. 73

¹³ Maryland Department of Planning. *Dominated by Agricultural and Forest Land: Maryland Department of Planning GIS Methodology*

were approved. Our calculations suggest as many as 2,543 acres would be misclassified by the proposed amendment in the county's Rural West.

Conclusion

The amended staff report makes clear that the proposed tier map was crafted "to revise the Growth Tier designations and return development rights previously eliminated." Thus, "RC properties in Tier III are those that have major subdivision potential (larger than 21.25 acres) or those that were grandfathered by applying for septic "perc" testing prior to July 1, 2012."

This stated rationale is not an appropriate or legally valid standard by which to designate tiers. To do so elevates 'development rights' above all other planning visions, goals, and associated land use plans that the Howard County Planning Board and past County Councils have established to protect and enhance water quality and quality of life. It results in a map that does not comply with state planning statutes and it puts the health of Howard County's rivers and streams at increased risk.

In light of the pressing need to reduce the impact of future development on local and regional water quality, the Chesapeake Bay Foundation strongly urges the Howard County Planning Board to recommend against General Plan Amendment 2016-01. **The currently adopted map is the only map before the Board that is consistent with state and local statutes, plans, and policies.** It is also the most protective of clean water.

CBF stands ready to assist Howard County in this effort. Please do not hesitate to contact me at 410-543-1999 or by email at efisher@cbf.org to discuss this matter in further detail.

Sincerely,



Erik Fisher, AICP
Maryland Land Use Planner

Howard County Farm Bureau Testimony

My name is Jamie Brown from TLV Tree Farm, 15155 Triadelphia Mill Rd. Glenelg, MD 21737 and I am testifying on behalf of the Howard County Farm Bureau.

When we talk about tiers legislation many times we talk about development, but the heart of this legislation is about property rights, more specifically the property right of farmers. The current tiers legislation took away the rights of 36 property owners to make a decision on what they should do with their land. These farmers made a decision not to go into farm land preservation and keep their development rights based on their current situation. When the county passed the current tiers legislation they stole from these farmers. They stole property value as well as the right of these farmers to make a decision on what to do with their land. They significantly decreased the value of these properties by reducing the number of homes to a maximum of 4 per property regardless of the acreage of the farm. Farming is a business with tight profit margins and a farmer's land is their biggest asset, providing a source of revenue, stability and an investment for the future. This new tier legislation would right a wrong and give back these property rights and restore the value of these farmers' properties.

There are some that say passing this bill would cause more development and this development would have an adverse effect on agriculture and the country feel of the rural west of our county. If this bill passed it would potentially add 215 more homes to the rural west of the county. The rural west of the county has 14,266 homes, so that is an increase of 1.5%. The Farm Bureau does not believe a potential increase in development of 1.5% is worth taking property rights away from farmers of these 36 properties. We understand that property development does affect our agriculture with more conflicts because of the close proximity of homes to our farms, but we don't believe an increase of 1.5% is going to make a significant difference in that conflict. We definitely do not think that this small increase justifies taking property rights away from our farmers. It is also important for us to realize the 215 homes we are talking about, are the maximum number of homes that could be built. This does not take into account topographical constraints, perc test, or if the owner decides to go into preservation program. So we are really talking about less than 215 homes. It should be the farmer's right to decide what they do with their property whether it be a preservation program, sell for development or continue to keep farming the property until they decide what they would like to do.

It is easy to not think of this on a personnel level especially when we are talking about only 36 properties. If we did, I don't think the current tier legislation would have passed. Just think if you had the county pass legislation that reduced the value of your property 1/3 of its current value. That's what has happen to some of the owners of these farm properties. This affects not only the farmers that own this property but future generation to come. We have stolen what many of the farmers, their fathers and grandfathers worked so hard to obtain, their land and the value of that land. We have tied their hands in making a decision that fits their family needs and how their future generations will move forward. It's time to do the right thing and give these property owners their rights back.

On behalf of the Howard County Farm Bureau we would like to thank you for the opportunity to speak tonight and everything you have done for the farm community. We ask that you vote yes for bill CB16-2017.

CB 16-2017 Growth Tiers Bill- **OPPOSED**

Keith Ohlinger
2790 Florence Road
Woodbine, MD 21797

My name is Keith Ohlinger and I am a farmer in Western Howard County. Our farm is in the county Agricultural Land Preservation Program and I thank you all for this opportunity. My testimony is as a private citizen, but I serve on a number of different groups and boards and am very familiar with this issue. I am a member of the Board of Supervisors for Howard Soil Conservation District, I am on the Board of Directors for Howard County Farm Bureau, I am the President of the Watershed Improvement Network Steering Committee, I am on the Board of Directors for the Chesapeake Alliance for Sustainable Agriculture/Future Harvest, and I am the Vice President of the Howard County Extension Advisory Council which houses the Master Gardeners and Watershed Stewardship Academy.

This is a difficult challenge and I believe the people involved are all good people from our representatives to the farmers, residents, and developers. It creates an incredible conflict within me because even with all the nice people involved it is impossible for me to express how vehemently I oppose this bill.

Before I begin I want everyone here to think about what you ate today and what you have at home in your refrigerators and freezers. How much of that did you grow, raise, catch, hunt or gather for yourselves? How much did you eat this week or this month or this year? How long could you survive if you had to feed yourself? If the answer is very little or you couldn't then you owe your life and your family's life to the blood sweat and tears of a farmer. You owe your future to the farmers who want to continue farming.

I first experienced the internal conflict of this issue back in the 80's growing up in Pennsylvania. We had just come through the early years of Earl Butz, the Secretary of Agriculture's, "Get big or get out!" and farm "fence row to fence row" policies and many farmers did. Money flowed freely, we were a dairy region, herds expanded, state of the art milking parlors went in, and silos went up. Boy if you had a Harvestore silo you were a big deal and if you had more than one you were a celebrity. Farmers borrowed and bought more land, it was high times.

Gone, though, were the logical price protections of the previous generations and higher production meant increased surplus which meant lower prices and when interest rates went through the roof and prices fell it was devastating to the farming community. Farming barely supported one family let alone several, the debt was staggering and the future looked awful at best. The government that created the mess offered a dairy buyout and many watched the herd they loved and nurtured all those years disappear overnight.

My grandfather was born in 1901 and my father in 1943 so they had witnessed a lot of development and they knew what was coming but I didn't. And one night my father and I got into an argument. A neighboring farmer was selling into development because that was the only game in town; there was no agricultural preservation program. Most of the farmers were hurting and couldn't afford to expand anymore, the only option was development. My dad made the comment that the neighbors were being greedy. Now we all knew these people and they were not greedy and I knew dad knew that. Their bodies were shot, they had worked hard all their lives and now their dreams were in ruins. Their

alternative was bankruptcy and a nursing home. The kids didn't want the farm they saw no future there and here comes a developer offering more money than they ever held in their life. Well what would you do? They took the money, houses went up and they lived a few more years, and that was that.

But dad and my grandfather knew what was coming. We got an influx of people that had no connection to the community and no understanding of farming. Development used to occur slowly and allowed integration and now it seemed like almost overnight you were outnumbered! Next came the conflict. People who couldn't feed themselves attacked the ones who did know how. Things the farmers had done for years without problem now they suddenly were getting sued over. How could this happen!? The farmers had no idea that they would lose rights to use their own land when houses moved in next door.

This is about money and not property rights. If it were about property rights then we would have long been talking about reverse setbacks. The largest that I am aware of right now is the hunting setback of 150 yards or 450 feet. Right now if a house goes in next door that farmer may lose their right to hunt on their own land just because a house moved in next door. They did nothing wrong but now they lose their right to hunt. The homeowners get nervous without a setback so why not require the house be built 450 feet back from the property line? The farmer then has free use of their land and the homeowner has their setback. Well because that would limit the number of houses on a piece of land so developers would pay less and these folks wouldn't get enough money. **It's not about property rights it's about money.**

So let's set that thought aside for the moment, when we bulldoze these 1600 acres what sort of houses are they going to put up? They aren't going to put up low income housing. This isn't about a lack of shelter for the masses. These are going to be big houses for big money. Well what comes with big houses and big money, that's right home owners associations! Covenants, conditions and restrictions! You can't pick the color door you want; it has to come from the architectural control committee's approved color palette. You can't have the siding you want or the garden you want or raise animals to feed your family. Why not make a law against having homeowners associations in the RC zone? I was told because people pay more to live in a homeowners association. **It's about money not property rights.**

Luckily for us decades ago Howard County began to look at agricultural preservation seriously and said that we need to do something meaningful to protect our food supply. Basic math dictated that if every family at some point sold their farm to fund their retirement that eventually there would be no farms left. Manhattan used to be farm land, and Bethesda, Rockville, Baltimore, and on and on.

Telling the public that "If it means so much to you to protect it, then buy it yourself" was never a successful strategy. So sound minded people created agricultural preservation programs to do just that and today we have over 19,000 acres in preservation here in Howard County. We also have over 56,000 acres in residential, three times the amount of preserved land so development is definitely not hurting in this equation.

So let's look at the impact from leaving this land alone and putting it into preservation. Economically, agriculture is consistently in the top five industries in the county, and I believe is number one in Maryland. No loss there. The developers will still get to transfer increased density to areas where the past three general plans have said we should put it. So no loss there. Are the farmers going to suffer? Well the Ridgely farm sold last year for \$2.7 million for 169 acres that is just under \$16,000 an acre for a

preserved farm. The farm down the hill from me on Florence is going for \$795,000 for 50 acres, that is just under \$16,000 an acre. That is not bad when coupled with up to \$40,000 per acre to put it into preservation.

So let's look at the environmental impact. In speaking with members of 1000 Friends and the Chesapeake Bay Foundation, hands down the western end of the county has the better water. Why? Because the farmers are doing their jobs! Every farm in preservation, whether in the county or state program has to have a Soil Conservation Plan. If that farm makes over \$2,500 in gross sales per year or has 8 one thousand pound animal units then they are required to have a Nutrient Management Plan with MDA. Development is not going to give you that.

I am a farmer; my concern is for the future of farming. I am a member of Farm Bureau not the development bureau, I support agricultural preservation not development preservation. How do we continue and foster this noble profession? Farming needs land. It is a requirement, it an absolute.

In order to support and foster an agricultural community you need farms both big and small. Those farms work together buying and selling the materials they need and supporting the broader community. Some farms are sold allowing existing farms to grow their operations and some are rented out which allows other farmers a chance to enter the business, some just continue as they are. Again land is the key.

I have no fault with a farmer when the time comes to retire. I have no fault if the hard decision needs to be made to stop farming, I have no problem if there is a financial need or an investment needs to be sold. I understand and support that.

All I ask is respect and appreciation for those who wish to remain. For the farmers who wish to stay, who wish to live in peace and who want to prosper. Give us that opportunity. \$20 from the Agricultural Land Preservation Program buys just as much as \$20 from a developer. The only difference is that the Agricultural Land Preservation Program keeps that land in farming forever and in the other we lose it forever.

We are committed to working with you to do what is best for the county. We are at our best when we all work together. Thank you all for your time.

Very Truly yours;

Keith Ohlinger

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February 20, 2017

Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

RE: Council Bill 16-2017

Howard County has a well funded and successful easement purchase program. For property owners who don't want to sell an easement there is also a density transfer program available. Council Bill 16-2017 effectively ignores those programs and makes the few remaining undeveloped properties in the county available for development.

For more than 30 years Howard County and the State of Maryland have administered programs that pay farmers to voluntarily preserve their farms in perpetuity. Farmers who make that decision do not so lightly. They choose to preserve their farm because they love the land and the lifestyle of farming. Easements are a legal document that allows the farmer to "harvest" a portion of the value of the farm while maintaining ownership of the land. Over 250 Howard County farmers and landowners have chosen to take advantage of these programs. Howard County alone has invested more than \$200 million in agricultural preservation programs.

The purpose of this significant expenditure of public funds has always been to maintain a viable agricultural base in the County. Agriculture provides a safe, local food supply. Farmers are excellent stewards of the land implementing the best management practices available for soil and water quality. The presence of large blocks of agricultural land provides both a psychic and physical break from an uninterrupted suburban and urban landscape.

Implicit in the County's decision to purchase the easements was a commitment to support agriculture in the County. Farmers and landowners were seldom paid the full development value. They accepted the offer because they want to continue to farm and protect the land they love. Allowing major subdivisions adjacent to preserved farmland always has, and continues to fly in the face of that commitment.

Farmers who have placed a conservation easement on their property are hesitant to speak out at zoning and land use hearings. Farmers generally have a "live and let live" attitude toward their neighbors. Junk, smells, barking dogs, slow moving vehicles, gunshots, and similar nuisances that would be major issues in suburban areas are ignored and even embraced in rural areas. Once a farmer has placed their land under easement they tend to think that they should now stay out of other peoples business – just as they won't complain about their neighbor's nuisance.

At one time there was a relative naive thought that folks who moved into a 3 or 5-acre lot in the County would surely use that land for a few steers or pigs, and thereby understand many of the issues inherent in agriculture. The thought of mowing 3 to 5 acres was virtually unheard of before the era of the lawn service. But that is not how development in Western Howard County has gone. Development tends to be very expensive homes. Folks who pay a million dollars for a home are unlikely to raise a pig in the back yard. They often have little, if any connection with the sights and smells of agriculture today. One of the most common complaints of farmers is the conflict between impatient drivers and slow moving farm equipment.

The council has an opportunity to limit future conflicts of this nature by adopting a large contiguous area for the Tier 4 planning designation, there by prohibiting additional major developments adjacent to existing protected farms. It is the right thing to do to protect the investment that Howard County has made in agricultural preservation. It is the right thing to do to affirm the decision that so many farmers have made to permanently protect their farms. It is the right thing to do to continue to protect some of the most productive agricultural land in the County.

A proposal to place a tier-4 designation on ONLY preserved farms is insulting to the families who have chosen to preserve their land. Development should not be the preferred land use these areas. We need to work together to protect the investment the county and farm families have made in Howard County agriculture. Land use regulations should be designed to match and protect the expenditure of public funds. Right to farm laws should be strengthened and all regulations should be evaluated to see if they are appropriate for farming today.

Homebuilders and farmers both provide important, meaningful contributions to the county. They just should not be encouraged to attempt to provide those contributions side by side in Western Howard County.

Sincerely,

Ann H. Jones

CB16-2017

February 21, 2017

POSITION: OPPOSE

Dear County Executive Kittleman and the Members of the County Council,

I am a lifelong Howard County resident who is vehemently opposed to the expansion of septic system development in Howard County.

As a transportation advocate, encouraging this low-density housing far removed from local amenities runs counter to any health and sustainability goals we have as a county. By building more low-density housing we require our residents to spend more time in their cars to get to work, stores, and even to get their exercise, as these low-density neighborhoods rarely connect to suitable walking or running facilities such as sidewalks.

As a smart growth advocate, I am disappointed that the county seeks to go towards less dense development. As these tier maps change and we have more growth where it should not be happening, the county has to spend more money to maintain roads, emergency services, schools, and other public services. This is not economic sustainability, this is allowing developers to build homes on cheaper land where they do not have to pay for sewer hookups.

As a clean water advocate, I am disappointed that CB16-2017 expands the use of septic systems which we know imperil our clean water. Wastewater treatment plants are the best way to treat nitrogen and bacteria, not septic systems. Howard County has not met our 2017 WIP benchmark for nitrogen, much less our 2025 goal. Increased reliance on septic systems is not the appropriate route for growth.

Therefore, I oppose CB16-2017. Changing our tier maps to allow increased low-density housing growth on septic systems is not the direction that our county needs to be going. We need to keep our rural lands rural and encourage infill development on sewer instead of installing more, polluting septic systems.

Best,



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Opposition to Bill 16-2017; Public Hearing February 21, 2017

The intent of Bill 16-2017 is to change the zoning of thousands of acres of farmland in western Howard County, from Tier IV (farming and conservation) to Tier III (housing development). This proposed revision was already rejected by the County Council. The Howard County Sierra Club urges the County Council to reject it again.

The proposed amendment to PlanHoward 2030 would affect property in the Upper Patuxent Rural Legacy area, subverting the intent of the designation. This much construction in this setting would also violate the Resource Protection Initiative and the Environmental Protection Initiative adopted in the Plan.

This area is the only part of Howard County that retains any streams that are clean and healthy enough to be classified as Tier II -- the highest quality -- by the Maryland Department of the Environment. Building more housing developments will worsen stormwater runoff by adding more impervious surfaces (driveways, roofs, streets). Homeowners' lawns are not held to the same high environmental standards that farmland is. Farmers in the Agricultural Land Preservation Program are not only compensated for keeping farms in agriculture, but have plans for nutrient management, soil conservation, and water conservation.

Building hundreds of new homes will have a severe impact on the rural environment, starting with the deforestation and loss of ground cover. Creating yards out of farmland will worsen water pollution. In addition, this housing would require use of septic systems, further increasing the deleterious environmental impact.

The County government is entrusted with protecting the rural character of western Howard County, both as a resource for the entire county and as an environmental necessity. Please vote no on Bill 16 – 2017.

Testimony of Nancy Perkins,
10613 Vista Road,
Columbia, Maryland 21044

I am here today to testify against Bill No. 16-2017. This bill does not support smart growth and would be detrimental to our environment in Howard County and to the Chesapeake Bay. My husband called County Executive Kittlemen's office today to inquire if Mr. Kittlemen's family held property in the area affected by the requested change. No one in Mr. Kittlemen's office would provide an answer. If Mr. Kittlemen does own property in this area it would seem like a substantial conflict of interest. I would like to know the answer.

All land has zoning restrictions. The land's value is based in part on the zoning allowed for that property. Land owners buy or acquire property based on this information. The argument that the individuals that own these properties are hurt by the zoning any more than any other land owner would be a false argument in my opinion. I too would love to develop my property beyond what it is zoned.

Bill No. 16 requests an area that was deemed growth Tier IV to be included in the change. Tier IV is defined to be the most limited growth area and I believe the most environmentally sensitive. This requested change is unacceptable to me. Please do not pass this Bill.

Thank you