Introduced 1/7/19
Public hearing 1/22/19
Council action 2/4/19
Executive action 2/7/19
Effective date 4/9/19

County Council of Howard County, Maryland

2019 Legislative Session | Legislative day # 1

BILL NO. 4 – 2019

Introduced by:
Liz Walsh

AN ACT amending the Howard County Code by ~~removing~~ requiring the Department of Planning and Zoning to report on the necessary disturbance exemption for development near wetlands, streams, and steep slopes; and generally relating to the protection of wetlands, streams, and steep slopes.

Introduced and read first time January 7, 2019. Ordered posted and hearing scheduled.

By order
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on January 22, 2019.

By order
Jessica Feldmark, Administrator

This Bill was read the third time on February 4, 2019 and Passed ___, Passed with amendments ✓, Failed ___.

By order
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 6 day of February, 2019 at 1:00 a.m./(p.m.)

By order
Jessica Feldmark, Administrator

(Approved)/Vetoed by the County Executive February 7, 2019

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

***Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the Howard County Code is hereby amended as follows:*

By Amending:

Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"

Subtitle 1. "Subdivision and Land Development Regulations."
Article II. "Design Standards and Requirements."
Section 16.116. "Protection of wetlands, streams, and steep slopes."

HOWARD COUNTY CODE

Title 16. PLANNING, ZONING AND SUBDIVISIONS AND LAND DEVELOPMENT REGULATIONS

Subtitle 1. Subdivision and Land Development Regulations.
Article II. Design Standards and Requirements.

Section 16.116. Protection of wetlands, streams, and steep slopes.

(a) *Streams and Wetlands:*

(1) Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within 25 feet of a wetland in any zoning district.

(2) Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within:

(i) Fifty feet of an intermittent stream bank;

(ii) Seventy-five feet of a perennial stream bank for Use I streams as classified by the Maryland Department of the Environment in residential zoning districts and residential and open space land uses in the NT, PGCC, and MXD districts;

(iii) One hundred feet of a perennial stream bank for Use III and IV streams; and

(iv) Fifty feet of a perennial stream bank in nonresidential zoning districts.

(3) In residential subdivisions, wetlands, streams, and their buffers shall be located in required open space or a nonbuildable preservation parcel rather than on residential lots except as permitted by section 16.120 of this subtitle.

(4) Wetlands and the required buffers for wetland and streams shall be delineated on final plats and site development plans with a clear notation of use restrictions. Wetlands need not be delineated for agricultural preservation subdivisions or rural cluster subdivisions if a qualified professional certifies that wetlands and buffers will not be impacted by the proposed lots or potential development.

(b) *Steep Slopes.* Steep slopes are slopes that average 25 percent or greater over ten vertical feet.

(1) Grading, removal of vegetative cover and trees, new structures, and paving shall not be permitted on land with existing steep slopes, except when:

(i) The on-site and off-site contiguous area of steep slopes is less than 20,000 square feet; and

(ii) There is sufficient area, a minimum ten feet, outside of stream and wetland buffers for required sediment and erosion control measures.

(2) In residential subdivisions steep slopes existing at the time of subdivision shall be located in required open space or a nonbuildable preservation parcel, except as permitted by section 16.120 of this subtitle.

~~H~~(c) *Necessary Disturbance:*

(1) Grading, removal of vegetative cover and trees, and paving are not permitted in wetlands, streams, wetland buffers, stream buffers or steep slopes unless the Department of Planning and Zoning determines based on a detailed justification provided by the developer that:

(i) It is necessary for construction of public or private roads, driveways, utilities, trails, pathways, or stormwater management facilities which are essential for reasonable development of the property;

(ii) The design minimizes disturbance;

(iii) There is no other reasonable alternative; and

(iv) The cost of an alternative improvement shall not be a factor in deciding whether the criteria in subject subsection (i) above can be met.

(2) Reasonable development, for the purpose of this subsection, does not guarantee maximum possible development under the zoning regulations for density receiving subdivisions in the RC and RR zoning districts. In any zoning district, achieving the maximum possible density is not sufficient justification alone to allow disturbance.

(3) If permitted, the grading, removal of vegetative cover and trees, or construction shall only be to the extent required to accommodate the necessary improvements. In these cases, the Department of Planning and Zoning ~~may~~ SHALL require the least damaging designs, such as bridges, bottomless culverts or retaining walls, as well as ENVIRONMENTAL REMEDIATION, INCLUDING THE planting of the areas where grading or removal of vegetative cover OR TREES has taken place UTILIZING BEST PRACTICES FOR ECOLOGICAL RESTORATION AND WATER QUALITY ENHANCEMENT PROJECTS.~~]~~

"(4) AN APPLICANT SHALL REQUEST PERMISSION FROM THE DEPARTMENT OF PLANNING AND ZONING FOR A NECESSARY DISTURBANCE EXCEPTION IN WRITING FOR THE GRADING, REMOVAL OF VEGETATIVE COVER AND TREES, OR PAVING AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

(5) THE DEPARTMENT OF PLANNING AND ZONING SHALL MAKE AVAILABLE TO THE COUNTY COUNCIL AND THE PUBLIC ON THE DEPARTMENT'S WEBPAGE A ~~QUARTERLY~~ MONTHLY REPORT THAT INCLUDES THE FOLLOWING INFORMATION FOR EACH APPLICATION FOR A NECESSARY DISTURBANCE EXCEPTION:

I. THE NAME OF THE APPLICANT;
II. THE DATE OF THE APPLICATION;
III. PROJECT NAME;
IV. PROJECT TYPE;
V. A DESCRIPTION OF THE PROJECT; ~~AND~~
VI. THE ACTION OF THE DEPARTMENT TO DENY THE APPLICATION, APPROVE THE APPLICATION, OR ADVISE THE APPLICANT TO SEEK ALTERNATIVE ~~COMPLIANCE.".~~ COMPLIANCE; AND

VII. IF APPROVED, INCLUDE IN THE REPORT THE APPLICANT'S MITIGATION REQUIREMENT."

Section 2. Be it further enacted *by the County Council of Howard County, Maryland, that this Act shall become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on February 27, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2019.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2019.

Jessica Feldmark, Administrator to the County Council

Amendment 1 to Council Bill No. 4

BY: David Yungmann
Opel Jones

Legislative Day 3
Date: February 4, 2019

Amendment No. 1

(This amendment would keep the necessary disturbance exemption and require all applicants for necessary disturbances to apply in writing to DPZ. Also, DPZ would be required to track certain information concerning necessary disturbance requests and report ~~quarterly~~ monthly to the County Council and the public. If a necessary exemption is granted, this amendment would require DPZ to require the least damaging designs and specified environmental remediations.)

On page 1 of the bill, in line 1 of the title, strike "removing" and substitute "requiring the Department of Planning and Zoning to report on"

On page 2, in line 19 and on page 3, in line 11, strike the brackets.

On page 3, insert at line 12:

"(4) AN APPLICANT SHALL REQUEST PERMISSION FROM THE DEPARTMENT OF PLANNING AND ZONING FOR A NECESSARY DISTURBANCE EXCEPTION IN WRITING FOR THE GRADING, REMOVAL OF VEGETATIVE COVER AND TREES, OR PAVING AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

(5) THE DEPARTMENT OF PLANNING AND ZONING SHALL MAKE AVAILABLE TO THE COUNTY COUNCIL AND THE PUBLIC ON THE DEPARTMENT'S WEBPAGE A ~~QUARTERLY~~ MONTHLY REPORT THAT INCLUDES THE FOLLOWING INFORMATION FOR EACH APPLICATION FOR A NECESSARY DISTURBANCE EXCEPTION:

I. THE NAME OF THE APPLICANT;

II. THE DATE OF THE APPLICATION;

III. PROJECT NAME;

IV. PROJECT TYPE;

V. A DESCRIPTION OF THE PROJECT; ~~AND~~

VI. THE ACTION OF THE DEPARTMENT TO DENY THE APPLICATION, APPROVE THE APPLICATION, OR ADVISE THE APPLICANT TO SEEK ALTERNATIVE ~~COMPLIANCE.”~~. COMPLIANCE; AND

VII. IF APPROVED, INCLUDE IN THE REPORT THE APPLICANT'S MITIGATION REQUIREMENT.”

On page 3, in line 9, strike “may” and substitute “SHALL”.

On page 3, in line 10, after the second “as”, insert “ENVIRONMENTAL REMEDIATION, INCLUDING THE”.

On page 3, in line 11, after “cover”, insert “OR TREES”. In the same line, after “place”, insert “UTILIZING BEST PRACTICES FOR ECOLOGICAL RESTORATION AND WATER QUALITY ENHANCEMENT PROJECTS.”.”.

ADOPTED 2/4/19

FAILED

SIGNATURE JF

Amendment 1 to Amendment 1 to Council Bill No. 4

BY: Deb Jung

Legislative Day 3
Date: February 4, 2019

Amendment No. 1

(This amendment would require DPZ to report certain information concerning necessary disturbance requests on a monthly basis to the County Council and the public. Also, if a necessary disturbance exemption is granted, this amendment would require DPZ to require the least damaging designs and specified environmental remediations.)

On page 1, in line 15, strike "quarterly" and substitute "monthly".

On page 1, in line 16, after the period, insert "*If a necessary exemption is granted, this amendment would require DPZ to require the least damaging designs and specified environmental remediations.*".

On page 1, in line 30, strike "QUARTERLY" and substitute "MONTHLY".

On page 2, in line 4, strike "AND"; and strike in its entirety line 7 and substitute:

"COMPLIANCE; AND

VII. IF APPROVED, INCLUDE IN THE REPORT THE APPLICANT'S MITIGATION REQUIREMENT.".

On page 3, in line 9, strike "may" and substitute "SHALL".

On page 3, in line 10, after the second "as", insert "ENVIRONMENTAL REMEDIATION, INCLUDING THE".

On page 3, in line 11, after "cover", insert "OR TREES". In the same line, after "place", insert "UTILIZING BEST PRACTICES FOR ECOLOGICAL RESTORATION AND WATER QUALITY ENHANCEMENT PROJECTS.".".

ADOPTED 2/9/19

FAILED

SIGNATURE

Amendment 2 to Amendment 1 to Council Bill No. 4

BY: David Yungmann

Legislative Day 3
Date: February 4, 2019

Amendment No. 2

(This amendment would correct the title.)

On page 1 of the amendment, in line 18, insert the following:

"On page 1 of the bill, in line 1 of the title, strike "removing" and substitute "requiring the Department of Planning and Zoning to report on".

ADOPTED 2/4/19
FAILED
SIGNATURE JF

Introduced_____
Public hearing_____
Council action_____
Executive action_____
Effective date_____

County Council of Howard County, Maryland

2019 Legislative Session

Legislative day # 1

BILL NO. 4 – 2019

Introduced by:
Liz Walsh

AN ACT amending the Howard County Code by removing the necessary disturbance exemption for development near wetlands, streams, and steep slopes; and generally relating to the protection of wetlands, streams, and steep slopes.

Introduced and read first time _____, 2019. Ordered posted and hearing scheduled.

By order_____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2019.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2019 and Passed ___, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___day of _____, 2019 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2019

_____
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

***Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the Howard County Code is hereby amended as follows:*

By Amending:

Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"

Subtitle 1. "Subdivision and Land Development Regulations."
Article II. "Design Standards and Requirements."
Section 16.116. "Protection of wetlands, streams, and steep slopes."

HOWARD COUNTY CODE

Title 16. PLANNING, ZONING AND SUBDIVISIONS AND LAND DEVELOPMENT REGULATIONS

Subtitle 1. Subdivision and Land Development Regulations.
Article II. Design Standards and Requirements.

Section 16.116. Protection of wetlands, streams, and steep slopes.

(a) *Streams and Wetlands:*

(1) Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within 25 feet of a wetland in any zoning district.

(2) Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within:

(i) Fifty feet of an intermittent stream bank;

(ii) Seventy-five feet of a perennial stream bank for Use I streams as classified by the Maryland Department of the Environment in residential zoning districts and residential and open space land uses in the NT, PGCC, and MXD districts;

(iii) One hundred feet of a perennial stream bank for Use III and IV streams; and

(iv) Fifty feet of a perennial stream bank in nonresidential zoning districts.

(3) In residential subdivisions, wetlands, streams, and their buffers shall be located in required open space or a nonbuildable preservation parcel rather than on residential lots except as permitted by section 16.120 of this subtitle.

(4) Wetlands and the required buffers for wetland and streams shall be delineated on final plats and site development plans with a clear notation of use restrictions. Wetlands need not be delineated for agricultural preservation subdivisions or rural cluster subdivisions if a qualified professional certifies that wetlands and buffers will not be impacted by the proposed lots or potential development.

(b) *Steep Slopes.* Steep slopes are slopes that average 25 percent or greater over ten vertical feet.

(1) Grading, removal of vegetative cover and trees, new structures, and paving shall not be permitted on land with existing steep slopes, except when:

(i) The on-site and off-site contiguous area of steep slopes is less than 20,000 square feet; and

(ii) There is sufficient area, a minimum ten feet, outside of stream and wetland buffers for required sediment and erosion control measures.

(2) In residential subdivisions steep slopes existing at the time of subdivision shall be located in required open space or a nonbuildable preservation parcel, except as permitted by section 16.120 of this subtitle.

[[(c) *Necessary Disturbance:*

(1) Grading, removal of vegetative cover and trees, and paving are not permitted in wetlands, streams, wetland buffers, stream buffers or steep slopes unless the Department of Planning and Zoning determines based on a detailed justification provided by the developer that:

(i) It is necessary for construction of public or private roads, driveways, utilities, trails, pathways, or stormwater management facilities which are essential for reasonable development of the property;

(ii) The design minimizes disturbance;

(iii) There is no other reasonable alternative; and

(iv) The cost of an alternative improvement shall not be a factor in deciding whether the criteria in subject subsection (i) above can be met.

(2) Reasonable development, for the purpose of this subsection, does not guarantee maximum possible development under the zoning regulations for density receiving subdivisions in the RC and RR zoning districts. In any zoning district, achieving the maximum possible density is not sufficient justification alone to allow disturbance.

(3) If permitted, the grading, removal of vegetative cover and trees, or construction shall only be to the extent required to accommodate the necessary improvements. In these cases, the Department of Planning and Zoning may require the least damaging designs, such as bridges, bottomless culverts or retaining walls, as well as planting of the areas where grading or removal of vegetative cover has taken place.]]

Section 2. Be it further enacted *by the County Council of Howard County, Maryland, that this Act shall become effective 61 days after its enactment.*

Amendment 1 to Council Bill No. 4

BY: David Yungmann
Opel Jones

Legislative Day 3
Date: February 4, 2019

Amendment No. 1

(This amendment would keep the necessary disturbance exemption and require all applicants for necessary disturbances to apply in writing to DPZ. Also, DPZ would be required to track certain information concerning necessary disturbance requests and report quarterly to the County Council and the public.)

On page 2, in line 19 and on page 3, in line 11, strike the brackets.

On page 3, insert at line 12:

"(4) AN APPLICANT SHALL REQUEST PERMISSION FROM THE DEPARTMENT OF PLANNING AND ZONING FOR A NECESSARY DISTURBANCE EXCEPTION IN WRITING FOR THE GRADING, REMOVAL OF VEGETATIVE COVER AND TREES, OR PAVING AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

(5) THE DEPARTMENT OF PLANNING AND ZONING SHALL MAKE AVAILABLE TO THE COUNTY COUNCIL AND THE PUBLIC ON THE DEPARTMENT'S WEBPAGE A QUARTERLY REPORT THAT INCLUDES THE FOLLOWING INFORMATION FOR EACH APPLICATION FOR A NECESSARY DISTURBANCE EXCEPTION:

I. THE NAME OF THE APPLICANT;

II. THE DATE OF THE APPLICATION;

III. PROJECT NAME;

IV. PROJECT TYPE;

V. A DESCRIPTION OF THE PROJECT; AND

VI. THE ACTION OF THE DEPARTMENT TO DENY THE APPLICATION, APPROVE THE APPLICATION, OR ADVISE THE APPLICANT TO SEEK ALTERNATIVE COMPLIANCE.".

Amendment 2 to Council Bill No. 4

BY: Deb Jung

Legislative Day 3
Date: February 4, 2019

Amendment No. 2

(This amendment would keep the necessary disturbance exemption and require all applicants for necessary disturbances to apply in writing to DPZ. Also, DPZ would be required to track certain information concerning necessary disturbance requests and report quarterly to the County Council and the public. If a necessary disturbance exemption is granted, DPZ would be required to require the least damaging designs and specified environmental remediation.

Not Introduced

On page 2, in line 19 and on page 3, in line 11, strike the brackets.

On page 3, insert at line 12:

"(4) AN APPLICANT SHALL REQUEST PERMISSION FROM THE DEPARTMENT OF PLANNING AND ZONING FOR A NECESSARY DISTURBANCE EXCEPTION IN WRITING FOR THE GRADING, REMOVAL OF VEGETATIVE COVER AND TREES, OR PAVING AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

(5) THE DEPARTMENT OF PLANNING AND ZONING SHALL MAKE AVAILABLE TO THE COUNTY COUNCIL AND THE PUBLIC ON THE DEPARTMENT'S WEBPAGE A QUARTERLY REPORT THAT INCLUDES THE FOLLOWING INFORMATION FOR EACH APPLICATION FOR A NECESSARY DISTURBANCE EXCEPTION:

I. THE NAME OF THE APPLICANT;

II. THE DATE OF THE APPLICATION;

III. PROJECT NAME;

IV. PROJECT TYPE;

V. A DESCRIPTION OF THE PROJECT; AND

VI. THE ACTION OF THE DEPARTMENT TO DENY THE APPLICATION, APPROVE THE APPLICATION, OR ADVISE THE APPLICANT TO SEEK ALTERNATIVE COMPLIANCE.".

On page 3, in line 9, strike "may" and substitute "SHALL".

On page 3, in line 10, after the second "as", insert "ENVIRONMENTAL REMEDIATION, INCLUDING THE".

On page 3, in line 11, after "cover", insert "OR TREES". In the same line, after "place", insert "UTILIZING BEST PRACTICES".

Not Introduced

Amendment 1 to Amendment 1 to Council Bill No. 4

BY: Deb Jung

Legislative Day 3
Date: February 4, 2019

Amendment No. 1

(This amendment would require DPZ to report certain information concerning necessary disturbance requests on a monthly basis to the County Council and the public. Also, if a necessary disturbance exemption is granted, this amendment would require DPZ to require the least damaging designs and specified environmental remediations.)

On page 1, in line 15, strike "quarterly" and substitute "monthly".

On page 1, in line 16, after the period, insert "*If a necessary exemption is granted, this amendment would require DPZ to require the least damaging designs and specified environmental remediations.*".

On page 1, in line 30, strike "QUARTERLY" and substitute "MONTHLY".

On page 2, in line 4, strike "AND"; and strike in its entirety line 7 and substitute:

"COMPLIANCE; AND

VII. IF APPROVED, INCLUDE IN THE REPORT THE APPLICANT'S MITIGATION REQUIREMENT.".

On page 3, in line 9, strike "may" and substitute "SHALL".

On page 3, in line 10, after the second "as", insert "ENVIRONMENTAL REMEDIATION, INCLUDING THE".

35 On page 3, in line 11, after "cover", insert "OR TREES". In the same line, after "place", insert
36 "UTILIZING BEST PRACTICES FOR ECOLOGICAL RESTORATION AND WATER QUALITY ENHANCEMENT
37 PROJECTS.".".
38
39
40

Amendment 1 to Council Bill No. 4

BY: David Yungmann
Opel Jones

Legislative Day 3
Date: February 4, 2019

Amendment No. 1

(This amendment would keep the necessary disturbance exemption and require all applicants for necessary disturbances to apply in writing to DPZ. Also, DPZ would be required to track certain information concerning necessary disturbance requests and report quarterly to the County Council and the public.)

On page 2, in line 19 and on page 3, in line 11, strike the brackets.

On page 3, insert at line 12:

"(4) AN APPLICANT SHALL REQUEST PERMISSION FROM THE DEPARTMENT OF PLANNING AND ZONING FOR A NECESSARY DISTURBANCE EXCEPTION IN WRITING FOR THE GRADING, REMOVAL OF VEGETATIVE COVER AND TREES, OR PAVING AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

(5) THE DEPARTMENT OF PLANNING AND ZONING SHALL MAKE AVAILABLE TO THE COUNTY COUNCIL AND THE PUBLIC ON THE DEPARTMENT'S WEBPAGE A QUARTERLY REPORT THAT INCLUDES THE FOLLOWING INFORMATION FOR EACH APPLICATION FOR A NECESSARY DISTURBANCE EXCEPTION:

I. THE NAME OF THE APPLICANT;

II. THE DATE OF THE APPLICATION;

III. PROJECT NAME;

IV. PROJECT TYPE;

V. A DESCRIPTION OF THE PROJECT; AND

VI. THE ACTION OF THE DEPARTMENT TO DENY THE APPLICATION, APPROVE THE APPLICATION, OR ADVISE THE APPLICANT TO SEEK ALTERNATIVE COMPLIANCE.".

Amendment 2 to Council Bill No. 4

BY: Deb Jung

Legislative Day 3
Date: February 4, 2019

Amendment No. 2

(This amendment would keep the necessary disturbance exemption and require all applicants for necessary disturbances to apply in writing to DPZ. Also, DPZ would be required to track certain information concerning necessary disturbance requests and report quarterly to the County Council and the public. If a necessary disturbance exemption is granted, DPZ would be required to require the least damaging designs and specified environmental remediation.

On page 2, in line 19 and on page 3, in line 11, strike the brackets.

On page 3, insert at line 12:

"(4) AN APPLICANT SHALL REQUEST PERMISSION FROM THE DEPARTMENT OF PLANNING AND ZONING FOR A NECESSARY DISTURBANCE EXCEPTION IN WRITING FOR THE GRADING, REMOVAL OF VEGETATIVE COVER AND TREES, OR PAVING AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

(5) THE DEPARTMENT OF PLANNING AND ZONING SHALL MAKE AVAILABLE TO THE COUNTY COUNCIL AND THE PUBLIC ON THE DEPARTMENT'S WEBPAGE A QUARTERLY REPORT THAT INCLUDES THE FOLLOWING INFORMATION FOR EACH APPLICATION FOR A NECESSARY DISTURBANCE EXCEPTION:

I. THE NAME OF THE APPLICANT;

II. THE DATE OF THE APPLICATION;

III. PROJECT NAME;

IV. PROJECT TYPE;

V. A DESCRIPTION OF THE PROJECT; AND

VI. THE ACTION OF THE DEPARTMENT TO DENY THE APPLICATION, APPROVE THE APPLICATION, OR ADVISE THE APPLICANT TO SEEK ALTERNATIVE COMPLIANCE.".

On page 3, in line 9, strike "may" and substitute "SHALL".

On page 3, in line 10, after the second "as", insert "ENVIRONMENTAL REMEDIATION, INCLUDING THE".

On page 3, in line 11, after "cover", insert "OR TREES". In the same line, after "place", insert "UTILIZING BEST PRACTICES".

CLEAN WATER ACTION
MARYLAND

January 22, 2019

CB-4 2019
In Support

Clean Water Action is a water-oriented advocacy group with over 5,000 members in Howard County, and 37,000 in the state of Maryland. Clean Water Action supports policies that protect and improve water quality in Maryland and throughout the country.

Wetlands, streams, and steep slopes are vulnerable environmental features that need to be protected from development. Wetlands provide important ecosystem services, filtering and slowing runoff, and are an important feature in stormwater management. Streams are the direct pipeline for nutrients, pollution, and sediment downstream, and also serve as important habitat and sources of recreation for kids and other Howard County residents. Steep slopes pose a particular erosion risk and should be preserved.

Buffers around these features, especially forested buffers, are a critical tool for preserving water and habitat quality. Forest is one of the most effective ways to combat nutrient pollution in water. They decrease water velocity by soaking up stormwater, decrease water temperatures to provide a more hospitable environment for aquatic life, are a carbon sink, and provide necessary habitat for local wildlife, among other benefits. Trees can also reduce erosion by stabilizing stream banks, necessary with rising quantities of stormwater runoff and bigger storm events increasing the quantity and velocity of water in our streams and rivers..

Trees, shrubs, and plants located in sensitive areas including 100-year floodplains, intermittent and perennial streams and their buffers, and steep slopes are, per state law, to be considered priority for retention and should be left undisturbed.

When state regulations were imposed, local jurisdictions were allowed to develop waiver programs in order to provide discretion and flexibility in enforcing the law. However, each jurisdiction is given the authority to be more stringent than state minimums, and each jurisdiction can better protect their water resources. CB-4 better protects Howard County's water resources by limiting development inside the most critical areas: within the stream buffer, in wetlands, and by steep slopes.

Best,

Emily Ranson
Maryland Program Coordinator
eranson@cleanwater.org
443-562-2832

Columbia Association
6310 Hillside Court, Suite 100
Columbia, Maryland 21046-1070
ColumbiaAssociation.org

January 31, 2019

The Honorable Liz Walsh
Howard County Council
George Howard Building
3430 Courthouse Drive
Ellicott City, MD 21043

Re: Council Bill No. 4-2019

Dear Ms. Walsh:

The Columbia Association (CA) maintains more than 4,000 acres of Columbia's open space. This includes more than 95 miles of pathways and sidewalks for walking, biking and jogging; 165 tot lots; 284 footbridges; three man-made lakes; 41 man-made ponds; 34 miles of stream valleys; over 150 stormwater facilities; the 11-acre Symphony Woods; Wilde Lake Park; and the Lake Elkhorn Park and Pavilion. CA's open space also includes an extensive network of pedestrian underpasses and overpasses, meadows, forestland, basketball courts, public tennis courts, Town Center and village center plazas located throughout the community. Many of these existing amenities and facilities are in wetlands areas, stream valleys or are on steep slopes.

CA supports the overall intent of CB 4-2019, which will help to eliminate residential and commercial impacts in sensitive environmental areas. However, CA is concerned that as currently written, CB 4-2019 would have a significant negative impact on CA's ability to maintain and make future improvements within its open space systems. Routine maintenance costs for pathways, tot lots, and bridges would increase substantially, and in some cases, the bill would limit or completely eliminate CA's ability to move pathways and other amenities away from sensitive environmental areas such as streams. The majority of open space parcels have an SDP, and there is already significant County oversight with respect to any modifications to existing amenities that CA might seek to make.

CA regularly upgrades its existing open space facilities and amenities like pathways and tot lots for the benefit of Columbia and greater Howard County residents. Since most of our pathway network and many of our tot lots are within 100 ft. of a perennial stream, any disturbance related to widening of a pathway or modifications to a tot lot that involved grading, vegetative cover or tree removal would be prohibited by CB 4-2019. When possible, CA also prefers to move existing pathways away from stream banks to protect them from erosion. CB 4-2019 would prohibit this activity within the defined buffers.

CA also follows a Watershed Management Plan, which calls for the installation of stormwater management facilities to treat stormwater discharges and to stabilize or restore degraded stream channels. Many of CA's open space stormwater projects are not the result of development, but instead are undertaken to treat untreated discharges from both public property, i.e. schools and roads, and other private property. CA does this voluntarily to improve water quality and protect

downstream infrastructure and resources. CA tries to keep the cost of these activities under control. As currently written, CB 4-2019 would not permit the clearing and grading that is required when CA conducts a stream restoration project or constructs a stormwater facility on a parcel with an SDP. CA has voluntarily completed five stream restoration projects and eight bioretention projects to treat stormwater that could not have been completed without grading and tree removal within 25 ft. of a wetland and 100 ft. of a perennial stream, which would be prohibited by CB 4-2019.

For these reasons, CA respectfully requests that CB 4-2019 be amended to exempt any land that is zoned and designated as open space. Open space lots are held for the public good. The bill as written would severely limit or curtail maintenance and improvements to valuable public amenities, and therefore would not be in the public interest.

Respectfully submitted,

Milton W. Matthews
President/CEO

cc: Columbia Association Board of Directors

Sayers, Margery

From: Michael Kreft <mikekreft92@hotmail.com>
Sent: Monday, February 4, 2019 2:59 PM
To: CouncilMail
Subject: Support for CB4-2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Howard County Council Members,

I'm writing to support CB4-2019, which will remove the "necessary disturbance" exception from Section 16.116 of the Howard County Code for protection of wetlands, streams and steep slopes.

I've been a home owner in Howard County for over 25 years. I feel CB4-2019 will further protect what remaining wetlands, streams and steep slopes still exist in the county. I just need to look out my back window to see evidence of damage to streams and steep slopes by recent residential development.

Strengthening the protections in Section 16.116 will go a long way preserve environmentally sensitive areas of Howard County in future development. This would also provide some control over devastating floods that the county has experienced in the last few years.

Michael Kreft
Ellicott City, District 1

Fisher, Karina

From: Alan Schneider <ajs333@aol.com>
Sent: Monday, February 4, 2019 4:43 PM
To: crigby@howardcountymd.com; Jung, Deb; Jones, Opel; Walsh, Elizabeth; djungmann@aol.com
Subject: Vote for CB3 and CB4

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Historic areas need more protection. Proposed developments do not meet standards for protecting historic areas and adjacent wetlands and environmentally protected areas.

Wetlands need more protection. Wetlands were not protected when the mortuary on Route 108 was approved as a conditional use. Wetlands existed. Testimony by the environmental expert said "there are no wetlands". The approval of the site development plan was inconsistent with the approved conditional use. My appeal was within the 30 day period set by the DPZ. The hearing examiner accepted Sang Oh's argument that the appeal period began earlier, and dismissed my appeal. Opponent's experts were denied access to the site by "no trespassing signs" and i was threatened with a criminal trespass action against me.

Alan Schneider
12598 Clarksville Pike
Clarksville, Md.21029

CB4-2019

Sayers, Margery

From: Lynn B. Clark <lbclark@verizon.net>
Sent: Wednesday, January 30, 2019 9:21 PM
To: CouncilMail
Subject: CB3 and CB4

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

We support CB3 and CB4

We have lived on Lawyers Hill RD (LHRD) since 1998 when we bought a 1950's cape cod style house near the intersection with Montgomery RD. Although our home is not in the designated Historic Residential District, it is tied to a family that has many generations on "The Road"(LHRD) [including Old LHRD]. Families that have moved away for various reasons return even in succeeding generations. Despite the distance between many of the homes,especially the designated historic ones that that are sheltered by stands of grand old trees, much of the sense of community springs from the historic Meeting Hall near the intersection of LHRD and Old LHRD. It was the center of the original Summer retreat homes for wealthy families from Baltimore. This was before electricity, air-conditioning/heating, and indoor plumbing. Of course, the historic homes' amenities have been upgraded interior-wise. The Meeting Hall retains many of these limitations to reflect the historic site designation but it is used as much as possible, weather permitting. It is where the social activities such as parties, dances, plays, musicals, and picnics occurred. Also, many of the battles began there to protect the area such as the splitting of the community by the building of Interstate 95 as all of the agreements to reduce the highway noise met the bedrock! It only took 50+ years of fighting for the community to have the noise barrier built!

We are now fighting for the integrity of all of the designated historic district's properties. A developer is trying apply a zoning rating for the surrounding area (RED) to override the zoning for a designated historic property to build homes that do not meet any of the printed Guidelines for this specific historic district's buildings and landscaping. Modern **interior** amenities are allowed. This developer has no intention of following the exterior Guidelines. He plans to strip the land's dense 100+ year-old trees and foliage that serve as a vital animal refuge and "plant 1 fruit tree in the back yard" of the 17 closely aligned lots. Nothing resembles the guidelines for the only historic residential district in our county.

Members of the LHRD community and the Gables community (adjoining part of the historic district) have met with this developer to discuss his plans and to give him input in relation to the Guidelines, the importance of the existence of the valuable trees and impact on the root systems of trees on nearby properties if clearance is too close to some property lines. Rainwater flow, nature of the landscape, and already existing traffic issues on LHRD and the Gables' through road (both from RT 1) were presented to him and were essentially ignored. He is doing everything to negate the property's existing zoning protections.

We recognize the significant financial gains for the landowner, developer, and potential builder of the proposed homes, but overriding this historic district designation will impact the future of all other historic properties in the district, leaving them subject to exploitation instead of preserving our history. This is why we support **CB3**.

Additionally, we support **CB4** in relation to the above property, and much of LHRD because of the rainwater flow from the east of many properties down a steep slope from RT1, despite the existing drainage systems and all of the trees and foliage. The record rainfall of 2018 indicates need for special additional rainwater control.

Lynn Burns Clark and Howard Douglas Keith
6541 Lawyers Hill RD
Elkridge, MD 21075

Sayers, Margery

From: Walsh, Elizabeth
Sent: Friday, January 25, 2019 10:09 AM
To: Sayers, Margery
Subject: Fw: Testimony CB-4
Attachments: CB-4 Favorable Testimony (1).pdf

From: Emily Ranson <eranson@cleanwater.org>
Sent: Tuesday, January 22, 2019 4:41 PM
To: Walsh, Elizabeth
Cc: Fisher, Karina; Dvorak, Nicole
Subject: Testimony CB-4

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Hi, Councilwoman Walsh and all,

Here is my written testimony for CB-4. I am not seeing a way to submit online - am I just missing the link?

Thanks,

Emily Ranson

Emily Ranson
Maryland Program Coordinator
Clean Water Action
www.cleanwateraction.org
1120 N Charles Street, Suite 415
Baltimore, MD 21201
(410) 235-8808 (o)

Thank you.

CLEAN WATER ACTION
MARYLAND

January 22, 2019

CB-4 2019
In Support

Clean Water Action is a water-oriented advocacy group with over 5,000 members in Howard County, and 37,000 in the state of Maryland. Clean Water Action supports policies that protect and improve water quality in Maryland and throughout the country.

Wetlands, streams, and steep slopes are vulnerable environmental features that need to be protected from development. Wetlands provide important ecosystem services, filtering and slowing runoff, and are an important feature in stormwater management. Streams are the direct pipeline for nutrients, pollution, and sediment downstream, and also serve as important habitat and sources of recreation for kids and other Howard County residents. Steep slopes pose a particular erosion risk and should be preserved.

Buffers around these features, especially forested buffers, are a critical tool for preserving water and habitat quality. Forest is one of the most effective ways to combat nutrient pollution in water. They decrease water velocity by soaking up stormwater, decrease water temperatures to provide a more hospitable environment for aquatic life, are a carbon sink, and provide necessary habitat for local wildlife, among other benefits. Trees can also reduce erosion by stabilizing stream banks, necessary with rising quantities of stormwater runoff and bigger storm events increasing the quantity and velocity of water in our streams and rivers..

Trees, shrubs, and plants located in sensitive areas including 100-year floodplains, intermittent and perennial streams and their buffers, and steep slopes are, per state law, to be considered priority for retention and should be left undisturbed.

When state regulations were imposed, local jurisdictions were allowed to develop waiver programs in order to provide discretion and flexibility in enforcing the law. However, each jurisdiction is given the authority to be more stringent than state minimums, and each jurisdiction can better protect their water resources. CB-4 better protects Howard County's water resources by limiting development inside the most critical areas: within the stream buffer, in wetlands, and by steep slopes.

Best,

Emily Ranson
Maryland Program Coordinator
eranson@cleanwater.org
443-562-2832

Sayers, Margery

From: John Garber <jgar2002@msn.com>
Sent: Friday, January 25, 2019 6:27 PM
To: CouncilMail
Subject: CB-04-2019
Attachments: Survey of variance use.docx

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council members:
Please see the attached letter re: a survey of variance use

Sincerely,

John Garber
Laurel, MD

Re: Suggested Survey or data collection on variance use

As an observer of the 1/22/19 Council Legislative Hearing I was taken aback by the comments from the development community regarding the use of variances (now called alternative compliance).

Those opposing CB-04 regarding elimination of DPZ discretion maintained that few developers use them and only when necessary-- so there is no abuse/reason to eliminate DPZ discretion. The implication is that DPZ has an objective knowledge base to determine when it is appropriate to allow this mechanism to be used. Unless and until such a data set is available it does not appear unreasonable to at least suspend the use of different 'relief mechanisms' by DPZ, if not eliminate it.

If records of variance use currently exist that are searchable, then they should be examined and analyzed first to see if they can provide an objective base for decision making. If not available, this discretion should be suspended or eliminated. Anecdotal reports should be used only to get a sense of the time, place, frequency, and identity of those making the requests. This information could provide the focus for the development of the parameters/criteria to be used if the discretionary power was needed. Each type of "relief" should be treated separately for analysis purposes: necessary disturbances, alternative compliance, administrative adjustments, or variances.

It is probably reasonable to assume that the 80/20 condition exists here. That is, 80% of the requests are coming from 20% of the developers. The tendency to specialize by certain land use attorneys and 'development consultants' would support that assumption. Those normally working with properties presenting greater challenges for development would be more likely to encounter situations needing some form of relief.

Smaller properties, infill properties, properties with steep slopes, forests, storm water management issues all present challenges when trying to meet the maximum density allowed. Properties with these constraints are the last to be developed for obvious reasons. Those with fewer constraints are more desirable and are developed first.

The essential issue here is attempting to force the property to match the desired plan rather than adapting the plan to match the capability and suitability of the property to support it. The goal of siting the maximum units allowed is the goal most likely to force the developer to seek solutions that would otherwise be unnecessary.

The term "highest and best use" refers to both the owners and the community's needs. As an alternative to waivers DPZ could better serve the development community, their clients and the public by guiding developers to consider reducing unit yield as the first option when revising plans. Use of the State's higher standard, practicable, rather than the lower standard, practical, to match the plan to a property's capability and suitability should be considered.

Definitions play an important role in the plan evaluation process.

suitability
the quality of being right or appropriate for a particular person, purpose, or situation.

capability
the power or ability to do something.

practicable
able to be done or put into practice successfully. *Synonyms:* realistic, feasible, possible, within the bounds/realm of possibility, viable, reasonable sensible, workable, achievable

practical
of or concerned with the actual doing or use of something rather than with theory and ideas.

The suggestion to examine the data on the granting of the various forms of relief could contribute unreasonably to a delay in bringing CB-

04-2019 to a vote. It would therefore be reasonable, appropriate, and prudent that during any delay to collect data, no additional relief is granted to new projects.

I urge you to vote for CB-04 due to its ability to better protect wetlands, streams, and steep slopes. It is essential that we do not continue to abuse critical land features for short term financial gain while risking our future safety and sustainability.

John Garber
Charter member AICP

Chairwoman Rigby and esteemed members of the county council,

I am here to testify in support of CB4, one of Ms. Walsh's first pieces of legislation. As a young person I felt compelled to come here and say thank you.

Thank you for making the environment a big priority right from the start of your tenure. The next decade is going to be critical if we are to save our planet from the ravages of climate change and destruction of our beautiful spaces by our own hands. I am so heartened to see this first early measure and look forward to seeing many pieces of legislation on the local level that will put our environment front and center.

Our generation is counting on you to start the work to repair the damage already caused. We will pick up the baton from you.

Thank you for standing up for the health of the Chesapeake Bay so that it may be here for future generations.

Musa Jafri

Elkridge MD

HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Lisa Markowitz, have been duly authorized by
(name of individual)

The People's Voice to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB4-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Lisa Markowitz

Signature: [signature]

Date: 1/22/19

Organization: The People's Voice

Organization Address: 3205 B Corporate Ct

Ellicott City MD 21042

Number of Members: 2492

Name of Chair/President: Lisa Markowitz

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

Lisa Markovitz for The People's Voice Ellicott City MD

January 21, 2019

CB 4 -2018 – Support

We are in favor of adding the increased protections this Bill provides to wetlands sensitive areas. For far too long, subjective areas of regulations leave these areas at risk. It makes sense to limit what can be done via someone's opinion, no matter how informed, and set certain things into a more defined protective state for environmental and safety protection of our watersheds. We would love to see even more of this type of tightening of grey areas in our regulations, and stop having so many blanketed areas of administrative allowances on the books. It does not serve long-term planning to have so much subjectivity in regulating development.

We are pleased to see this type of review and support it. I was particularly pleased to see, while on the Zoning Assessment Review Steering Committee, that the consultant hired to review our regulations and suggest changes, had a strong focus on tightening subjective areas in our zoning code. This Bill is a start in this direction.

Regulations should protect the whole picture, a cohesive plan, that values the environment, safety and historic features, just as much as economics. Protections that exist for those plans should take priority and thus, developments need to alter their puzzle pieces, not the alternative, always forcing a fit.

Thank you.

HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Howard Johnson, have been duly authorized by
(name of individual)

Howard County Citizens Association to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB3-2019 and CB4-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Howard L Johnson

Signature: Howard L Johnson

Date: 1/22/2019

Organization: Howard County Citizens Association

Organization Address: Ellicott City MD 21041

Ellicott City MD 21041

Number of Members: 490

Name of Chair/President: Stu Kohn

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Howard Johnson, have been duly authorized to
(name of individual)

testify on behalf of Howard County Citizens Association
(name of organization or group, or name of governmental agency, commission, or task force)

in opposition to CB3-2019 and CB4-2019 (Bill or Resolution number(s))

County Council regarding support for/opposition to/ request to amend this legislation.
(Please circle one)

Printed Name: Howard E. Johnson

Signature: Howard E. Johnson

Date: 7/22/2019

Organization: Howard County Citizens Association

Organization Address: Ellicott City MD 21041

Ellicott City MD 21041

Number of Members: 490

Name of Chair/President: Stu Kohn

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

Howard County Citizens Association

Since 1961...

The Voice Of The People of Howard County

Date: 22 January 2019

Subject: HCCA support Council Bill 4- 2019 to remove Necessary Disturbance from the county code section 16.116.

The Howard County Citizens Association, HCCA supports the amendments to the code to remove the *Necessary Disturbance* clause in the section of the code labeled Protection of wetlands, streams, and steep slopes. Line 22 on page 1 to line 18 on page 2 step through a number of setbacks from streams, wetlands and minimal disturbance on slopes to curtail intrusion on these sensitive areas. The Code as amended by this bill is strengthened as an environmental law to preserve the identified areas without compromise.

Necessary Disturbance created opportunities to take exceptions to accommodate development in these areas as deemed by the Department of Planning and Zoning. Instead this exception permits a given area to allow certain projects to move ahead if it is declared not too intrusive. How often has this clause undermined the intent of the code? Refer to Lines 3 through 6 on page 3 which states that achieving maximum density is not an acceptable justification to encroach on sensitive areas. If density is not the objective then what criteria would there be to push the boundary for a site plan which does not fit. This Bill will help clarify what can and cannot be done on property bordering these areas. We thank Councilwoman Walsh for having the wherewithal to propose this Bill to ensure the environment is better protected for us all.

Amendments to include rivers not buffered by wetlands would be a welcome improvement to the code to provide further protects the watershed and the bay.

We are very appreciative that both CB3 and 4 are being introduced by Councilwoman Walsh. We say this not only because of the validity of these Bills, but also because she is not giving the excuse of we have to wait until the anticipated Development Regulation Assessment code re-write is completed which is estimated to be two to three years away. Common sense Bills should not be delayed.

HCCA urges the Council to show your full support of protecting our environment. The passage of CB4-2019 will indeed show your constituents that the environment is a priority.

Howard Johnson
HCCA Board of Directors

HCCA

Howard County Citizens Association

Since 1961...
The Voice Of The People of Howard County

Date: 22 January 2019

Subject: HCCA support Council Bill 4- 2019 to remove Necessary Disturbance from the county code section 16.116

The Howard County Citizens Association, HCCA supports the amendments to the code to remove the Necessary Disturbance clause in the section of the code labeled Protection of wetlands, streams, and steep slopes. Line 22 on page 1 to line 18 on page 2 step through a number of setbacks from streams, wetlands and minimal disturbance on slopes to curtail intrusion on these sensitive areas. The Code as amended by this bill is strengthened as an environmental law to preserve the identified areas without compromise.

Necessary Disturbance created opportunities to take exceptions to accommodate development in these areas as deemed by the Department of Planning and Zoning. Instead this exception permits a given area to allow certain projects to move ahead if it is declared not too intrusive. How often has this clause undermined the intent of the code? Refer to Lines 3 through 6 on page 3 which states that achieving maximum density is not an acceptable justification to encroach on sensitive areas. If density is not the objective then what criteria would there be to push the boundary for a site plan which does not fit. This Bill will help clarify what can and cannot be done on property bordering these areas. We thank Councilwoman Walsh for having the wherewithal to propose this Bill to ensure the environment is better protected for us all.

Amendments to include rivers not buffered by wetlands would be a welcome improvement to the code to provide further protects the watershed and the bay.

We are very appreciative that both CB3 and 4 are being introduced by Councilwoman Walsh. We say this not only because of the validity of these Bills, but also because she is not giving the excuse of we have to wait until the anticipated Development Regulation Assessment code re-write is completed which is estimated to be two to three years away. Common sense Bills should not be delayed.

HCCA urges the Council to show your full support of protecting our environment. The passage of CB4-2019 will indeed show your constituents that the environment is a priority.

Howard Johnson
HCCA Board of Directors

TESTIMONY CB-4 2019 JOSEPH RUTTER, AICP FORMER HOWARD COUNTY PLANNING DIRECTOR

THIS LEGISLATION IS A FEEL GOOD BILL THAT IGNORES THE REALITIES OF PROPERTY RIGHTS AND THE ABILITY TO DEVELOP PROPERTY IN ACCORDANCE WITH COUNTY LAW.

CB-4 APPEARS TO PROTECT ENVIRONMENTAL FEATURES, BUT IN REALITY IT JUST ADDS THE UNNECESSARY STEP OF REQUIRING DPZ TO PROCESS A SEPARATE APPLICATION IN ORDER TO COME TO THE EXACT SAME CONCLUSION AS IT DOES IN DETERMINING THE DISTURBANCE IS NECESSARY.

DPZ HAS A HISTORY OF APPLYING THIS PROVISION ONLY WHEN IT IS OBVIOUS THE DISTURBANCE IS NECESSARY AND NO ALTERNATIVE COMPLIANCE CONDITIONS ARE WARRANTED.

JUST A FEW EXAMPLES: HIGH SCHOOL 13 SITE HAS A GRADING PLAN THAT DISTURBS SLOPES, WETLANDS AND WETLAND BUFFERS. THIS PLAN IS FOR THE RECLAMATION OF AN OLD QUARRY SITE IN ORDER FOR THE SCHOOL SYSTEM TO PREPARE A SDP FOR REVIEW. IT IS LIKELY ADDITIONAL IMPACTS TO THESE ENVIRONMENTAL FEATURES WILL BE REQUIRED AS THE SCHOOL, PARKING, ACCESS AND BALL FIELDS ARE PROPOSED. DELAYING THIS PROJECT FOR AN ADMINISTRATIVE BUREAUCRATIC PROCESS MAKES NO SENSE.

THE NEW COURT HOUSE ECP SHOWS ENCROACHMENT ON THE 100 YEAR FLOODPLAIN AND STREAM BUFFERS. AGAIN A SDP WILL BE DELAYED FOR NO GOOD REASON.

THERE ARE ROADS IN THE COUNTY WHERE LOTS FRONTING THE ROADS NEED TO CROSS A STREAM TO ACCESS THE PROPERTY. WITHOUT THIS PROVISION THE COUNTY IS JUST CREATING THE POTENTIAL FOR A REGULATORY TAKING.

ANY COMPETENT CIVIL ENGINEER CAN INFORM YOU THAT PUBLIC SEWERS ARE CONSTRUCTED TO WORK WITH GRAVITY. THEREFORE, THE COUNTY EXTENDS PUBLIC LINES IN STREAM BUFFERS ALONG THE STREAMS WHICH ALSO FLOW DOWN HILL. IN ORDER FOR ANYONE TO CONNECT TO THOSE LINES THEY NEED TO ENCROACH INTO THE STREAM BUFFER AND IF THE SEWER IS ON THE OPPOSITE SIDE OF THE STREAM THEY NEED TO CROSS THE STREAM.

THERE IS NO EVIDENCE THIS PROVISION HAS BEEN ABUSED BY DPZ AND ELIMINATING IT SERVES NO GOOD GOVERNMENT PURPOSE.

HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Angelica Bailey, have been duly authorized by
(name of individual)

Maryland Building Industry Association to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB4-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Angelica Bailey

Signature:

Date: January 20, 2019

Organization: Maryland Building Industry Association

Organization Address: Fulton, MD 20759

Fulton, MD 20759

Number of Members: 1

Name of Chair/President: Lori Graf, CEO

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

MARYLAND BUILDING INDUSTRY ASSOCIATION

11825 West Market Place | Fulton, MD 20759 | 301-776-6242

January 22, 2019

Re: OPPOSITION TO CB4 – Removing the necessary disturbance exemption for development near wetlands, streams, and steep slopes

Dear Chairwoman Mercer Rigby and Members of the Howard County Council:

The Howard County Chapter of the Maryland Building Industry Association (MBIA) writes in opposition to Council Bill 4 removing the Necessary Disturbance exemption for development near wetlands, streams, and steep slopes. The MBIA asserts that the Necessary Disturbance exemption is a valuable and judiciously-applied tool that ensures efficient and environmentally-sensitive development, and its removal would misappropriate county resources and inhibit responsible land development.

The Necessary Disturbance exemption was added to the county code to provide developers with the flexibility they need to provide quality projects that simultaneously benefit the property owner and mitigate harm to the environment. Site design guidelines are thorough, but they cannot account for every situation that may arise. The Necessary Disturbance exemption enables creative solutions without causing avoidable or superfluous damage to the environment.

In order to qualify for a Necessary Disturbance, the developer must provide a detailed justification to the Department of Planning and Zoning (DPZ) which shows that the work (grading, removal, paving, for example) is necessary to construct public or private roads, driveways, utilities, trails, pathways, or stormwater management facilities that are essential to the development of the property under the county code. The work must minimize disturbance, and there can not be any other reasonable alternative. These are specific and stringent standards, and projects don't often meet them. In our industry's experience, DPZ is fair and cautious in its analysis and does not grant many requests. If it is granted, it is truly necessary.

If this valuable and judiciously-used tool was removed, developers would have to rely solely on Alternative Compliance, which is a much lengthier application process with different requirements. The process takes valuable county resources, creating inefficiencies when the answer is the same as it would have been for a Necessary Disturbance request. If a project did not qualify for Alternative Compliance, the property owner would be stuck without the ability to develop his or her own property. Any project from single private lots to capital improvement projects to school construction plans utilize Necessary Disturbance exemptions, and removing the exemption would cause significant problems for all potential users.

Alternatively, the MBIA encourages the Council to postpone voting on this bill to give DPZ an opportunity to gather data on Necessary Disturbance exemptions. With time and the development of an effective tracking mechanism, DPZ can quantify how often Necessary Disturbances are requested, granted, and denied. If the data shows that Necessary Disturbances are over-utilized and/or granted without stringent analysis, the MBIA would be happy to be part of the solution. In the meantime, the MBIA urges you to vote against the removal of the Necessary Disturbance exemption.

Thank you for your attention to this vital issue and your continued support of the local home building industry. If you have any questions about these comments and would like to discuss MBIA's position further, please do not hesitate to contact me at abailey@marylandbuilders.org or (202) 815-4445.

Best regards,

Angelica Bailey, Esq., Vice President of Government Affairs

Cc: Councilman David Yungmann
Councilman Opel Jones
Councilmember Elizabeth Walsh
Councilmember Deb Jung
County Executive Calvin Ball
Sameer Sidh, Chief of Staff to the County Executive
Valdis Lazdins, Director of Planning
James Irvin, Director of Public Works

HOUSING MATTERS IN MARYLAND

Real Estate Drives the Maryland Economy

The estimated one-year economic impacts of building 3,875 single-family and 3,693 multifamily homes in Maryland

$1.7 BILLION
Income for Maryland residents

$371.1 MILLION
Taxes and other revenue for the state and local governments in the state

23,902
Jobs

The additional, annually recurring impacts of building 3,875 single-family and 3,693 multifamily homes in Maryland

$419.9 MILLION
Income for Maryland residents

$105.7 MILLION
Taxes and other revenue for the state and local governments in the state

5,951
Jobs

Jobs and Wages

Maryland's real estate industry, which encompasses the activities of real estate professionals, legal service providers and relevant construction segments, directly supported over **260,000 jobs** in Maryland in 2016. Compensation averaged roughly **$80,600 per year** (including benefits).

Real estate-related employment increased by 11% between 2012 and 2014, while overall employment grew by 3.7% during that same period.

Taxes and Revenues

The industry supports an estimated **$1.12 billion** in annual State individual income tax collections and **$675.3 million** in local tax collection. Real estate taxes accounted for **58% of local government general fund revenues** in 2016.

Real estate services contributed **$62.8 billion** in value added to Maryland gross state product in 2016.

Housing Shortage

The current supply of available homes in the area is approximately 1.205 million housing units. Based on current models, there is demand for 1.231 million units. According to Metrostudy, **Baltimore is under-built by an estimated 26,000 units.** According to a Council of Governments report, **the Washington DC region is expected to be under-built by 115,000 units by 2045.**

Sources: The Economic Impact of Home Building in Maryland Study, NAHB November 2014 and the Role of Real Estate in Maryland's Economy 2017

MARYLAND BUILDING INDUSTRY ASSOCIATION

MBIA is a not-for-profit trade organization representing the interests of over 1,100 member firms and more than 100,000 employees, including home builders, remodelers, developers and professional and service providers in the Maryland Counties of Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Howard, Montgomery, Prince George's and St. Mary's as well as Baltimore City, the Eastern Shore, Western Maryland and Washington, DC.

Find out more about us at marylandbuilders.org or call 301-776-6242.

MARYLAND BUILDING INDUSTRY ASSOCIATION

HOME BUILDERS CARE FOUNDATION · SERVING MARYLAND

HELPING THOSE IN NEED

The Maryland Building Industry Association is focused on giving back to our communities through its charity, the Home Builders Care Foundation. By utilizing the skills and resources of building industry members on shelter-related construction and service projects, we work to help local communities meet the challenges of sheltering and caring for vulnerable families and individuals.

IN THE PAST 4 YEARS ALONE THE HOME BUILDERS CARE FOUNDATION HAS

- **54** Community service projects and activities undertaken
- **4563** Men, women and children in crisis, who were provided help
- **406** Shelter units maintained by donated construction expertise
- **111** New housing units created
- **900** Children who received toys and gift cards during the holiday seasons
- **1000** Nutritional care packs prepared for the homeless with crisis contact resources
- **6500** Items of professional clothing donated to low-income job seekers for job interviews
- **2M** Program service dollars directly invested in projects to build shelter and support local communities

Please let us know if you are aware of a project that would be a good fit for the Home Builders Care Foundation.

pkane@hbcf.org
301-776-6242

We've done so much since our founding in 1984 and we can do even more together.
Please visit marylandbuilders.org or hbcf.org to donate and get involved.

STANDARDS FOR EXCELLENCE

Testimony for CB-4 support
Cathy Hudson
6018 Old Lawyers Hill Rd
Elkridge, Md 21075

I have lived in Elkridge for nearly 60 years and have seen many changes many good, and some not so good. One of the things that stands out to me, though, is seeing properties that I never thought could be developed, or should be developed, developed.

And that brings us to tonight. Under the section entitled Protection of wetlands, streams, and steep slopes (which I might add is woefully inadequate in protecting any of the above, especially in the RED zoning district) the regulations talk about what is considered a resource and what kind of buffer it requires-and then it gets to this section that says, oh, if you don't have any other choice, nevermind, go ahead and destroy the wetland, stream or steep slope. Oh and we will reward you as you don't need to apply for a waiver. And best of all we'll hide it as it won't even show up as a waiver if someone is evaluating the use/abuse of waivers!

So does this bill get rid of necessary waivers? No, but at least it increases the transparency of the process and doesn't reward it. And I would hope that this council along with the new administration will take a look at the existing legislation regarding the protection of our natural resources and look at further ways that they can be strengthened.

This legislation is long overdue. I ask you to support CB4

HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Carolyn Parsa, have been duly authorized by
(name of individual)

Howard County Sierra Club to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB 3 & CB 4 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Carolyn Parsa

Signature: [signature]

Date: 1-22-19

Organization: Howard County Sierra Club

Organization Address: _____

_____

Number of Members: 1,200

Name of Chair/President: Carolyn Parsa

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Susan Garber, have been duly authorized by
(name of individual)

the Savage Community Association Board of Directors to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB-4-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Susan Garber

Signature: Susan Garber

Date: January 22, 2019

Organization: Savage Community Association

Organization Address: Savage, MD 20763

Savage, MD 20763

Number of Members: 225

Name of Chair/President: Ed Montgomery

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

Biohabitats

The Stables Building
2081 Clipper Park Road
Baltimore, MD 21211

January 17, 2019

The Honorable Liz Walsh, District 1
George Howard Building, 1st Floor
3430 Courthouse Drive
Ellicott City, MD 21043

RE: **Council Bill No. 4-2019**

Subject: **Necessary disturbance for ecological restoration and water quality enhancement projects**

Dear Councilwoman Walsh:

As an ecological planning and design firm, we applaud your efforts to tighten regulations regarding the protection of sensitive natural resources. Since 2013, we have been a consult for the County's Storm Water Management (SWM) Division, where we design and oversee the construction of numerous projects that seek to enhance water quality and natural environments, such as the Dorsey Hall Village Water Quality Retrofits, Bonnie Branch Bank Stabilization and Rockburn Branch Park Stream Restoration and Water Quality Retrofits in District 1. Unfortunately, these beneficial projects are subject to the same development regulations as subdivisions and other projects even though they allow the land to revert back to a natural and hopefully better condition. It is through the "Necessary Disturbance Exemption" that the Department of Planning and Zoning authorizes these activities with minimal administrative burden and within a timeframe that supports SWM Division's objectives and permit requirements. We are writing to request an amendment to CB4-2019 to allow ecological restoration and water quality enhancement projects to be permitted under Section 16.116. "Protection of wetlands, streams, and steep slopes" as a necessary disturbance or other alternative compliance. Furthermore, it may be worth considering exemptions for redevelopment projects that result in a net ecological uplift, like some of the redevelopment work in Downtown Columbia, or new developments meeting the County's criteria for Green Neighborhoods. With these amendments, we feel that Howard County can continue to lead in environmental protection and encourage projects to further enhance the natural environments throughout the County.

Sincerely,
Biohabitats, Inc.

Michael Trumbauer
Sr. Restoration Ecologist / Project Manager

Sayers, Margery

From: Wendy Ng <wendywng@verizon.net>
Sent: Tuesday, January 22, 2019 6:20 PM
To: CouncilMail
Subject: CB-3 and CB-4

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Hi, I am sending in my support for the bills, CB-3 and CB-4 to be considered at the Howard County Council meeting tonight at 7 p.m., January 22, 2019.

Both bills will ensure better protection of Howard County land from rampant development that would ultimately adversely affect the quality of life in Howard County.

CB-3 would protect the historic landmark areas by allowing a more unified approach to historic landmarks and historic districts. New developments and existing old structures in the Ellicott City and Elkridge Historic Districts will be given the same approval processes by the Historic Preservation Committee, thereby ensuring the viability of historic registered landmark areas and districts.

CB-4 would protect wetland area from overzealous development that would harm land values and homeowners as well as the neighborhood and general environment. For example, land on Lawyers Hill Road that is considered wetland is now being built upon. Homeowners are finding out that their yards are flooded. Larger context should also considered - such as drainage issues that has plagued Old Ellicott City.

I urge the council to adopt both CB-3 and CB-4.

Thank you.

Wendy

Wendy Ng
wendywng@verizon.net
6086 Old Lawyers Hill Road, Elkridge, MD 21075
410-796-1578

Sayers, Margery

From: gloria.larkin@outlook.com
Sent: Tuesday, January 22, 2019 5:25 PM
To: CouncilMail
Cc: Sue; Lisa Badart; cmhudson@comcast.net
Subject: in support of CB3 and CB4

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Hello, I am a 40+ year homeowner in Lawyers Hill, in a historic home, in Howard County.
I fully support CB3 and CB4 and hoped that you will too as we must protect the historic district's legacy in the buildings as well as the landscapes.

Thank you
Gloria Larkin
6044 Old Lawyers Hill Rd
Elkridge MD 21075
410-796-4483

Sayers, Margery

From: Carl Gutschick <cgutschick@glwpa.com>
Sent: Tuesday, January 22, 2019 4:47 PM
To: CouncilMail; Wimberly, Theo
Cc: Angelica Bailey
Subject: Council Bills 3 & 4
Attachments: 20190122154515314.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

I will not be able to attend this evening's hearings, but please make the attached testimony available to each of the Council members. Please note that the attachment has one letter for each of the Bills.

Carl K. Gutschick, P.E., Principal

3909 National Dr., Suite 250 | Burtonsville, MD 20866
PH: 301-421-4024 | PH (Baltimore): 410-880-1820
PH (Northern VA): 301-989-2524 | FAX: 301-421-4186

Check out our new website: WWW.GLWPA.COM

GLW
PLANNING | ENGINEERING | SURVEYING

January 21, 2019

Howard County Council
3430 Courthouse Drive
Ellicott City, MD 21044

Re: Council Bill 4-2019

Ladies & Gentlemen:

I regret not being able to give this testimony in person, but I have the following concern with the proposed legislation.

I believe the Bill would eliminate a regulatory tool that has been used sparingly and properly for many years. There are plenty of times that an environmental impact for a development project has risen to the level requiring an Alternative Compliance Petition. The Department of Planning & Zoning has not been reluctant to require this type of evaluation when appropriate. However, there are times where an impact is so clearly necessary and warranted that it can be handled in a simpler manner. Using the "necessary disturbance" provisions of the Subdivision Regulations does not give the impact any less scrutiny; it is simply an easier way to process the request, as long as the conditions of using "necessary disturbance" are met as specified in the Subdivision Regulations.

An analogy may prove useful. The IRS has various forms for individuals to file taxes. Complicated returns must use the full 1040 to file. However, if the right conditions are met, a taxpayer can use the 1040-A or 1040-EZ. Given the right conditions for use of the easier form doesn't allow the taxpayer to pay less tax; it is just a simpler form to get to the same answer.

Please do not remove the "necessary disturbance" provisions. They serve a purpose, and I believe the process is used judiciously by DPZ.

Sincerely,

Carl Gutschick, PE
Principal

3909 National Drive, Suite 250 Burtonsville, MD 20866 | 301.421.4024 | 410.880.1820 | GLWPA.COM

Sayers, Margery

From: Meg Boyd <boydfamily11@gmail.com>
Sent: Tuesday, January 22, 2019 10:40 AM
To: CouncilMail
Subject: Support CB 3-2019 and CB 4-2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Councilmembers,
We are writing in strong support of both CB 3-2019 and CB 4-2019, which provide important protections for our community.

Thank you,
Meg and John Boyd
6589 Belmont Woods Rd, Elkridge, MD 21075

Sayers, Margery

From: Lisa May <lisavm78@vt.edu>
Sent: Tuesday, January 22, 2019 10:18 AM
To: CouncilMail
Subject: Comments on CB 3 and CB 4 from HCAR
Attachments: HCAR Comments on CB 3 and 4 1.19.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good morning,

On behalf of the Howard County Association of REALTORS, please find attached our comments on CB 3 and CB 4, which will be heard before the Council this evening.

If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

Lisa May
HCAR Government Affairs Director

HCAR
HOWARD COUNTY
Association of REALTORS®

Main 410-715-1437
Fax 410-715-1489
Web www.hcar.org

January 22, 2019

The Honorable Christiana Mercer Rigby, Chair
Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

Dear Chairperson Rigby,

On behalf of the Howard County Association of REALTORS® (HCAR), an organization representing over 2,000 real estate professionals and affiliates in the County, we are writing to offer comments on Council Bills 3 and 4, which will be heard before the Council on January 22.

HCAR believes that our community deserves both predictability and consistency in the development process. However, for orderly and effective development to occur, those businesses which provide housing within our County also deserve a sense of predictability and consistency. The passage of CB 3 and CB 4 as currently written have the potential to disrupt this balance, to the detriment of the housing industry and our area homebuyers.

CB 3 expands the role of the Historic Preservation Commission beyond its current function by adding yet another layer of approval to the already lengthy subdivision plan process. Meanwhile, CB 4 removes necessary disturbance provisions which are already limited in scope and are at times imperative to the successful use of the property. The delays, additional procedures or even project denials which would result from these bills would add costs to newly constructed housing and decrease available housing supply, resulting in less affordable options for our area workforce.

It is our hope that the Council will consider other means to provide a transparent, predictable development process for our residents and our development industry alike. Thank you in advance for your consideration of our comments.

Sincerely,

Dan Iampieri, President
Howard County Association of REALTORS®

Sayers, Margery

From: Angelica Bailey <abailey@marylandbuilders.org>
Sent: Tuesday, January 22, 2019 9:15 AM
To: CouncilMail; Angelica Bailey
Cc: Rigby, Christiana; Facchine, Felix; Walsh, Elizabeth; Dvorak, Nicole; Jung, Deb; Williams, China; Jones, Opel; Harris, Michael; Yungmann, David; Knight, Karen; Ball, Calvin B; Sidh, Sameer; Sager, Jennifer; Feldmark, Jessica; Irvin, Jim; Lazdins, Valdis; Lori Graf
Subject: Written Testimony for CB3 and CB4
Attachments: MBIA Opposition Letter to CB3 – Historic Preservation Commission.pdf; MBIA Opposition Letter to CB4 – Necessary Disturbance.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good Morning,

Please find MBIA's written testimony for bills CB3-2019 and CB4-2019 attached. We look forward to working with you on these important issues this evening.

Best,
Angelica Bailey

Angelica Bailey, Esq.
Vice President of Government Affairs
abailey@marylandbuilders.org
Maryland Building Industry Association
11825 W. Market Place
Fulton, MD 20759
Cell: 202-815-4445
Dir: 301-776-6205
Ph: 301-776-MBIA

MARYLAND BUILDING INDUSTRY ASSOCIATION
Advocate I Educate I Network I Build

MARYLAND BUILDING INDUSTRY ASSOCIATION
11825 West Market Place | Fulton, MD 20759 | 301-776-6242

January 22, 2019

Re: OPPOSITION TO CB4 – Removing the necessary disturbance exemption for development near wetlands, streams, and steep slopes

Dear Chairwoman Mercer Rigby and Members of the Howard County Council:

The Howard County Chapter of the Maryland Building Industry Association (MBIA) writes in opposition to Council Bill 4 removing the Necessary Disturbance exemption for development near wetlands, streams, and steep slopes. The MBIA asserts that the Necessary Disturbance exemption is a valuable and judiciously-applied tool that ensures efficient and environmentally-sensitive development, and its removal would misappropriate county resources and inhibit responsible land development.

The Necessary Disturbance exemption was added to the county code to provide developers with the flexibility they need to provide quality projects that simultaneously benefit the property owner and mitigate harm to the environment. Site design guidelines are thorough, but they cannot account for every situation that may arise. The Necessary Disturbance exemption enables creative solutions without causing avoidable or superfluous damage to the environment.

In order to qualify for a Necessary Disturbance, the developer must provide a detailed justification to the Department of Planning and Zoning (DPZ) which shows that the work (grading, removal, paving, for example) is necessary to construct public or private roads, driveways, utilities, trails, pathways, or stormwater management facilities that are essential to the development of the property under the county code. The work must minimize disturbance, and there can not be any other reasonable alternative. These are specific and stringent standards, and projects don't often meet them. In our industry's experience, DPZ is fair and cautious in its analysis and does not grant many requests. If it is granted, it is truly necessary.

If this valuable and judiciously-used tool was removed, developers would have to rely solely on Alternative Compliance, which is a much lengthier application process with different requirements. The process takes valuable county resources, creating inefficiencies when the answer is the same as it would have been for a Necessary Disturbance request. If a project did not qualify for Alternative Compliance, the property owner would be stuck without the ability to develop his or her own property. Any project from single private lots to capital improvement projects to school construction plans utilize Necessary Disturbance exemptions, and removing the exemption would cause significant problems for all potential users.

Alternatively, the MBIA encourages the Council to postpone voting on this bill to give DPZ an opportunity to gather data on Necessary Disturbance exemptions. With time and the development of an effective tracking mechanism, DPZ can quantify how often Necessary Disturbances are requested, granted, and denied. If the data shows that Necessary Disturbances are over-utilized and/or granted without stringent analysis, the MBIA would be happy to be part of the solution. In the meantime, the MBIA urges you to vote against the removal of the Necessary Disturbance exemption.

Thank you for your attention to this vital issue and your continued support of the local home building industry. If you have any questions about these comments and would like to discuss MBIA's position further, please do not hesitate to contact me at abailey@marylandbuilders.org or (202) 815-4445.

Best regards,

Angelica Bailey, Esq., Vice President of Government Affairs

Cc: Councilman David Yungmann
Councilman Opel Jones
Councilmember Elizabeth Walsh
Councilmember Deb Jung
County Executive Calvin Ball
Sameer Sidh, Chief of Staff to the County Executive
Valdis Lazdins, Director of Planning
James Irvin, Director of Public Works

Sayers, Margery

From: Lisa Badart <lbadart@gmail.com>
Sent: Monday, January 21, 2019 10:40 PM
To: CouncilMail
Subject: CB3-2019 / CB4-10`9

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Howard County Council Members,

My husband and I totally support both CB3 and Cb4-2019 and hope that you will also.

Thank you,
Lisa & Nicholas Badart
6001 Old Lawyers Hill Road
Elkrdige, MD 21075

Sayers, Margery

From: Angelica Bailey <abailey@marylandbuilders.org>
Sent: Sunday, January 20, 2019 12:26 PM
To: CouncilMail
Subject: Tuesday Hearing Testimony Signup
Attachments: CB4-2018 MBIA Testify.pdf; CB3-2018 MBIA Testify.pdf

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good Afternoon,

I will be testifying against CB3-2019 and CB4-2019 at Tuesday's hearing.

Thank you,
Angelica Bailey

Angelica Bailey, Esq.
Vice President of Government Affairs
abailey@marylandbuilders.org
Maryland Building Industry Association
11825 W. Market Place
Fulton, MD 20759
Cell: 202-815-4445
Dir: 301-776-6205
Ph: 301-776-MBIA

MARYLAND BUILDING INDUSTRY ASSOCIATION
Advocate I Educate I Network I Build

Sayers, Margery

From: Dvorak, Nicole
Sent: Tuesday, January 22, 2019 6:07 PM
To: CouncilMail
Subject: FW: Testimony CB-4
Attachments: CB-4 Favorable Testimony (1).pdf

From: Emily Ranson <eranson@cleanwater.org>
Sent: Tuesday, January 22, 2019 4:41 PM
To: Walsh, Elizabeth <ewalsh@howardcountymd.gov>
Cc: Fisher, Karina <kfisher@howardcountymd.gov>; Dvorak, Nicole <ndvorak@howardcountymd.gov>
Subject: Testimony CB-4

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Hi, Councilwoman Walsh and all,

Here is my written testimony for CB-4. I am not seeing a way to submit online - am I just missing the link?

Thanks,

Emily Ranson

Emily Ranson
Maryland Program Coordinator
Clean Water Action
www.cleanwateraction.org
1120 N Charles Street, Suite 415
Baltimore, MD 21201
(410) 235-8808 (o)

Thank you.

CLEAN WATER ACTION
MARYLAND

January 22, 2019

CB-4 2019
In Support

Clean Water Action is a water-oriented advocacy group with over 5,000 members in Howard County, and 37,000 in the state of Maryland. Clean Water Action supports policies that protect and improve water quality in Maryland and throughout the country.

Wetlands, streams, and steep slopes are vulnerable environmental features that need to be protected from development. Wetlands provide important ecosystem services, filtering and slowing runoff, and are an important feature in stormwater management. Streams are the direct pipeline for nutrients, pollution, and sediment downstream, and also serve as important habitat and sources of recreation for kids and other Howard County residents. Steep slopes pose a particular erosion risk and should be preserved.

Buffers around these features, especially forested buffers, are a critical tool for preserving water and habitat quality. Forest is one of the most effective ways to combat nutrient pollution in water. They decrease water velocity by soaking up stormwater, decrease water temperatures to provide a more hospitable environment for aquatic life, are a carbon sink, and provide necessary habitat for local wildlife, among other benefits. Trees can also reduce erosion by stabilizing stream banks, necessary with rising quantities of stormwater runoff and bigger storm events increasing the quantity and velocity of water in our streams and rivers..

Trees, shrubs, and plants located in sensitive areas including 100-year floodplains, intermittent and perennial streams and their buffers, and steep slopes are, per state law, to be considered priority for retention and should be left undisturbed.

When state regulations were imposed, local jurisdictions were allowed to develop waiver programs in order to provide discretion and flexibility in enforcing the law. However, each jurisdiction is given the authority to be more stringent than state minimums, and each jurisdiction can better protect their water resources. CB-4 better protects Howard County's water resources by limiting development inside the most critical areas: within the stream buffer, in wetlands, and by steep slopes.

Best,

Emily Ranson
Maryland Program Coordinator
eranson@cleanwater.org
443-562-2832

Sayers, Margery

From: Angelica Bailey <abailey@marylandbuilders.org>
Sent: Tuesday, January 22, 2019 4:48 PM
To: CouncilMail
Subject: RE: Tuesday Hearing Testimony Signup

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good Evening,

Please note that MBIA will testify against CB4, but not CB3. We have submitted written testimony for both.

Thank you,
Angelica Bailey

From: Angelica Bailey
Sent: Sunday, January 20, 2019 12:26 PM
To: 'councilmail@howardcountymd.gov'
Subject: Tuesday Hearing Testimony Signup

Good Afternoon,

I will be testifying against CB3-2019 and CB4-2019 at Tuesday's hearing.

Thank you,
Angelica Bailey

Angelica Bailey, Esq.
Vice President of Government Affairs
abailey@marylandbuilders.org
Maryland Building Industry Association
11825 W. Market Place
Fulton, MD 20759
Cell: 202-815-4445
Dir: 301-776-6205
Ph: 301-776-MBIA

MARYLAND BUILDING INDUSTRY ASSOCIATION
Advocate I Educate I Network I Build

Sayers, Margery

From: Walsh, Elizabeth
Sent: Tuesday, January 22, 2019 1:45 PM
To: Sayers, Margery
Cc: Dvorak, Nicole; Fisher, Karina
Subject: Fw: Council Bill 4-2019
Attachments: Walsh_CB4-2019_ltr.pdf

From: Michael Trumbauer <MTrumbauer@biohabitats.com>
Sent: Thursday, January 17, 2019 5:58 PM
To: Walsh, Elizabeth
Subject: Council Bill 4-2019

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Councilwoman Walsh,
Biohabitats is a consultant working with the County's Stormwater Management Division in support of their mission to "advance the quality of life for the citizens of Howard County through the improvement and management of the quality and quantity of water that originates in, falls onto, or passes through the county on its way to the Chesapeake Bay." We find this mission consistent with the intent of your proposed bill; however, in order to efficiently implement projects supporting this mission, we often must work in and around sensitive natural resources (wetlands, streams and steep slopes). While we seek to minimize our footprint and leave things better than we found them, the "necessary disturbance" is the means by which DPZ can authorize the projects with respect to Section 16.116. "Protection of wetlands, streams, and steep slopes". Consequently, we have prepared the attached letter in response to your proposed Council Bill 4-2019 requesting an amendment to allow for these beneficial projects that provide a net benefit to the resource and the County. We thank you for your consideration and let us know if you have any questions or would like to discuss potential amendments further.

Best Regards,

Mike Trumbauer
Sr. Restoration Ecologist

410.554.0156
667-401-8502 (Direct)
www.biohabitats.com
leaf litter newsletter

Biohabitats
Restore the Earth & Inspire Ecological Stewardship

2081 Clipper Park Road
Baltimore, MD 21211

Biohabitats

The Stables Building
2081 Clipper Park Road
Baltimore, MD 21211

January 17, 2019

The Honorable Liz Walsh, District 1
George Howard Building, 1st Floor
3430 Courthouse Drive
Ellicott City, MD 21043

RE: **Council Bill No. 4-2019**

Subject: **Necessary disturbance for ecological restoration and water quality enhancement projects**

Dear Councilwoman Walsh:

As an ecological planning and design firm, we applaud your efforts to tighten regulations regarding the protection of sensitive natural resources. Since 2013, we have been a consult for the County's Storm Water Management (SWM) Division, where we design and oversee the construction of numerous projects that seek to enhance water quality and natural environments, such as the Dorsey Hall Village Water Quality Retrofits, Bonnie Branch Bank Stabilization and Rockburn Branch Park Stream Restoration and Water Quality Retrofits in District 1. Unfortunately, these beneficial projects are subject to the same development regulations as subdivisions and other projects even though they allow the land to revert back to a natural and hopefully better condition. It is through the "Necessary Disturbance Exemption" that the Department of Planning and Zoning authorizes these activities with minimal administrative burden and within a timeframe that supports SWM Division's objectives and permit requirements. We are writing to request an amendment to CB4-2019 to allow ecological restoration and water quality enhancement projects to be permitted under Section 16.116. "Protection of wetlands, streams, and steep slopes" as a necessary disturbance or other alternative compliance. Furthermore, it may be worth considering exemptions for redevelopment projects that result in a net ecological uplift, like some of the redevelopment work in Downtown Columbia, or new developments meeting the County's criteria for Green Neighborhoods. With these amendments, we feel that Howard County can continue to lead in environmental protection and encourage projects to further enhance the natural environments throughout the County.

Sincerely,
Biohabitats, Inc.

Michael Trumbauer
Sr. Restoration Ecologist / Project Manager

Sayers, Margery

From: Paul Marzin <paul.marzin@gmail.com>
Sent: Monday, January 21, 2019 5:07 PM
To: CouncilMail
Cc: Paul Marzin
Subject: Support for CB4-2019; Request for Amendment

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

To: The Howard County Council:

Dear Howard County Council,

I am writing to support for Ms. Walsh's bill, CB-2019, to remove the "necessary disturbance" exception from Section 16.116 of the Howard County Code intended for the "Protection of wetlands, streams, and steep slopes."

More needs to be done to protect these areas now. The remainder of Section 16.116 prohibits development activity within certain buffer zones around wetlands, streams, and steep slopes. Based on the county's experience over the past few years, it is abundantly clear that this regulation does not adequately protect these environmentally sensitive areas or is side-stepped altogether with pressure from developers or others. I have personally witnessed this with the granting of multiple waivers which are allowing a project with steep slopes and scenic road concerns in my neighborhood. It's not too late to stop it. Legislation like this should help and therefore I support it.

Given the out-of-control development that has already altered the landscape around Ellicott City, with clearcutting of forest land and grading of steep slopes, run-off into once-quiet streams causes the streams to become raging rivers on a regular basis. Increased rainfall and storm intensity compound the problem and it looks like this trend will only get worse so I believe action needs to be taken now and put a stop to us destroying some of our County's greatest assets.

We need to expand the protection and geography of what is defined as our watershed. Other watersheds in the county also need protection. They are connected and depend on each other. Many of the streams, wetlands, and slopes in Ellicott City run alongside "scenic" roads – such as Bonnie Branch, Ilchester, Beechwood, New Cut, and College Avenue. During the recent storms, these roads were severely damaged by the velocity of the streams due to extreme run-off and will cost millions to repair. Bonnie Branch Road has become impassable during minor storms. The once-scenic road now has tons of ugly white riprap stones shoring up the streambank. The velocity of the water during the May storm destroyed the sewer line connection at the bottom of Beechwood Road polluting the Patapsco River, and dug out the side of Ilchester Road so deep that the gas pipeline was visible.

Even today, in these winter months, Ilchester Road has had a constant stream of water running down it and now is freezing. 3 inches of solid ice. My worry is with a new development planned right at the curve on steep slopes, will only make this worse and dangerous.

I am respectfully requesting that we add geography to the watershed map that includes the areas mentioned above. I am also asking that the increased protection should apply immediately and include in-process site development plans, specifically the Oak Hill Manor project, since this project is the perfect example of not providing for environmentally sensitive areas (steep slopes, scenic road frontage, and literally just above the Patapsco River.

The State of Maryland has spent a lot of effort and money, along with American Rivers, and the County, on the dam removals. It would be a shame not to protect these natural resources which are located just above the river and the entire Patapsco River area. Another example of a no brainer to expand the watershed geography here.

Paul Marzin
Ellicott City, District 1

Sayers, Margery

From: JTK <jtk409a@gmail.com>
Sent: Tuesday, January 1, 2019 3:48 PM
To: CouncilMail
Subject: Support for CB4-2019; Request for Amendment

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Howard County Council:

I am writing to voice my strong support for Ms. Walsh's bill, CB 4-2019, to remove the "necessary disturbance" exception from Section 16.116 of the Howard County Code intended for the "Protection of wetlands, streams, and steep slopes."

However, more needs to be done now to protect these environmentally sensitive areas.

The remainder of Section 16.116 prohibits development activity within certain buffer zones around wetlands, streams, and steep slopes. Based on the county's experience over the past few years, it is abundantly clear that this regulation does not adequately protect these environmentally sensitive areas. Given the out-of-control development that has already altered the landscape around Ellicott City, with clearcutting of forest land and grading of steep slopes, run-off into once-quiet streams causes the streams to become raging rivers on a regular basis. Increased rainfall and storm intensity compound the problem.

The devastation on Main Street is a constant reminder that bold action needs to be taken to protect the wetlands, streams, and steep slopes in the Main Street watershed.

However, other watersheds in the county also need protection. Many of the streams, wetlands, and slopes in Ellicott City run alongside "scenic" roads – such as Bonnie Branch, Ilchester, Beechwood, New Cut, and College Avenue. During the recent storms, these roads were severely damaged by the velocity of the streams due to extreme run-off and will cost millions to repair. Bonnie Branch Road has become impassable during minor storms. The once-scenic road now has tons of ugly white riprap stones shoring up the streambank. The velocity of the water during the May storm destroyed the sewer line connection at the bottom of Beechwood Road polluting the Patapsco River, and dug out the side of Ilchester Road so deep that the gas pipeline was visible.

At this point, many of the only areas left to build are environmentally sensitive areas. But, this has to stop.

What we know now is that the existing regulation to protect these environmentally sensitive areas did not work. But, it's possible that we can prevent further destruction now.

I'm respectfully requesting that Section 16.116 be amended to increase the protected buffer zones by doubling them, at a minimum. The increased protection should apply with immediate effect, including in-process site development plans.

If not now, when?

Julia T. Kovacs
Ellicott City, District 1