Introduced	3/4/19
Public Hearing	3/18/19
Council Action	4/1/19
Executive Action	4/5/19
Effective Date	4/5/19

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 4

Bill No. 10 -2019

Introduced by the Chairperson at the request of the County Executive

AN ACT expanding and clarifying upon the purpose of Storm Drainage provisions in the Howard County Code; defining certain terms; allowing the authority to enter into certain buildings, structures or premises in order to take certain actions when there exists a possible impediment to the passage of water during rain events; clarifying that the failure of a property owner to complete certain corrective action is a violation of the Howard County Code; ~~and generally relating to Storm Drainage~~ and declaring that this Act is an Emergency Bill necessary to meet an immediate emergency affecting public health, safety, or welfare.

Introduced and read first time March 4, 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 March 18, 2019.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on April 1, 2019 and Passed ___, Passed with amendments X, Failed ___.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 4 day of April, 2019 at 5 a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive April 5, 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.

WHEREAS, as the County heads into rainier weather seasons, which in the last several years have caused catastrophic floods, loss of human life, damage to property and extraordinary use of public resources to combat flooding, there is an immediate need to remove harmful debris from waterways before the debris becomes a threat to public health, safety and welfare; and

WHEREAS, pursuant to Section 209(d) of the Howard County Charter, this Emergency Bill is authorized as it is necessary to meet an immediate emergency affecting public health, safety, or welfare.

NOW, THEREFORE,

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

By amending

Title 18.Public Works.

Subtitle 5. Storm Drainage Systems.

1. *Section 18.500. Purpose.*
2. *Section 18.501. Definitions.*
3. *Section 18.503. Right of Entry.*
4. *Subsection (a) of Section 18.504. Repair and maintenance of private storm drain facilities in residential areas.*

Title 18. Public Works.

Subtitle 5. Storm Drainage Systems.

Section 18.500. – Purpose.

The purpose of this subtitle is to PROVIDE FOR THE PROPER FUNCTIONING OF THE STORM DRAINAGE SYSTEMS WITHIN THE COUNTY, INCLUDING WATERWAYS, TO prohibit certain stormwater and nonstormwater discharges [[into]]TO [[publicly and privately owned]] storm drainage [[facilities]]SYSTEMS or [[waterways and]]WATERWAYS, to [[provide for]]REQUIRE the repair and maintenance of privately owned storm drainage [[facilities]]FACILITIES, AND TO PROVIDE THAT THE FAILURE TO MAINTAIN CERTAIN PRIVATELY OWNED STORM DRAINAGE FACILITIES IS A VIOLATION OF THIS SUBTITLE.

Section 18.501. - Definitions.

Terms used in this subtitle have the meaning indicated.

(a) *Best management practice* shall have the meaning set forth in title 18, subtitle 9 of the Howard County Code.

(b) *Department* means the Department of Public Works.

(c) *Director* means the Director of the Department of Public Works or the Director's authorized designee.

(D) *DISCHARGE* MEANS:

(1) THE ADDITION, INTRODUCTION, LEAKING, SPILLING, OR EMITTING OF A POLLUTANT INTO THE WATERS OF THIS STATE; OR

(2) THE PLACING OF A POLLUTANT IN A LOCATION WHERE THE POLLUTANT IS LIKELY TO POLLUTE.

([[d]]E) *Hazardous material* means a material, including a substance, waste, or combination thereof, which, because of its quantity, concentration, physical, chemical, or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

([[e]]F) *Illicit connection* means either:

(1) A drain or conveyance, either on the surface or subsurface, which allows a discharge, prohibited under section 18.502 of this subtitle, to enter a public storm drainage facility or waterway, regardless of whether the drain or conveyance had been previously allowed, permitted, or approved by the Department; or

(2) A drain or conveyance connected to a public storm drainage facility or waterway which has not been documented in a plan, map, or equivalent record and approved by the Department.

([[f]]G) *National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit* means a permit issued by the Environmental Protection Agency or by a State acting under authority delegated pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to waters of the United States. The permit may be applicable on an individual, group, or general area-wide basis.

([[g]]H) *Nonstormwater discharge* means any discharge to a storm drainage facility or waterway that is not composed entirely of stormwater.

([[h]]I) *Person* means an individual, corporation, firm, partnership, association, organization, a group acting as a unit, or an executor, Administrator, trustee, receiver or other representative appointed according to law.

([[i]]J) *Pollutant* means anything which causes or contributes to pollution. A pollutant may include, but is not limited to, paints, varnishes and solvents, oil or other automotive fluids, nonhazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, other discarded or abandoned objects, ordinances and accumulations which may cause or contribute to pollution, floatables, pesticides, herbicides, fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, construction wastes and residues, noxious or offensive matter of any kind, or any other chemical substance.

([[j]]K) *Premises* means a building, lot, parcel of land, or portion of land whether improved or unimproved including, without limitation, adjacent sidewalks or parking strips.

([[k]]L) *Storm drainage facility* means a facility in which stormwater is collected or conveyed, including, without limitation, a road with a drainage facility, a municipal street, gutter, curb, inlet, piped storm drain, pumping facility, best management practice, reservoir, or other drainage structure.

(M) *STORM DRAINAGE SYSTEM* MEANS PUBLIC AND PRIVATELY-OWNED STORM DRAINAGE FACILITIES AND WATERWAYS.

([[l]]N) *Stormwater* means any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

([[m]]O) *Waterway* means any natural, manmade, or altered stream, river, creek, ditch, gully, ravine, lake, or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.

Section 18.503. - Right of entry.

(a) *Generally*. Except as provided in subsection (b) of this section, the Director may enter any BUILDING, STRUCTURE, OR premises at any reasonable time for the purpose of enforcing this subtitle AND FOR PERFORMING DUTIES RELATED TO THIS SUBTITLE.

(b) *Consent*. The Director may enter a private dwelling to inspect for a violation of this subtitle with the consent of the occupant or owner. If entry is refused, the Director may seek a court order to permit entry to the dwelling.

(c) *Threat to Public Health and Safety*. UPON PROVIDING PROOF OF IDENTITY PRIOR TO ENTRY, THE [[The]] Director [[shall have the right to]]MAY enter a building, structure, or [[premises where]]PREMISES:

(1) WHERE there is evidence that a violation of this subtitle exists which threatens or may threaten the public health and safety for the purpose of performing duties pursuant to the provisions of this [[subtitle. The Director shall produce proof of identity prior to entry]]SUBTITLE; OR

(2) TO REMOVE NATURAL AND MAN-MADE OBSTRUCTIONS IN STREAM CHANNELS AND IN THE FLOODWAY OF STREAMS, WHICH MAY IMPEDE THE PASSAGE OF WATER DURING RAIN EVENTS. THIS PROVISION DOES NOT CREATE ANY RESPONSIBILITY OF THE COUNTY FOR THE CLEARANCE OR MAINTENANCE OF THE STREAM, OR FOR FLOODING, AND DOES NOT AFFECT THE RIGHTS AND OBLIGATIONS OF PRIVATE PROPERTY OWNERS REGARDING THE FLOODPLAIN OR MAINTENANCE OF STREAM CHANNELS.

Section 18.504. - Repair and maintenance of private storm drain facilities in residential areas.

(a) Single Residential Lot Storm Drainage Facilities:

(1) Privately owned storm drainage facilities which are associated with the development of a lot or parcel for a single residence and which primarily benefit the owner or user of the lot or parcel shall be the responsibility of the property owner to maintain, repair, or replace.

(2) The repair or replacement of any storm drainage facility associated with the development of a lot or parcel for a single residence may be made by the property owner after written approval is obtained from the Department, and the work shall be done in accordance with such approval.

(3) If the County determines that deficiencies exist in a private stormwater drainage facility associated with the development of a lot or parcel for a single residence, the County shall give notice to the property owner in writing of the deficiencies, describe the required corrective action, and the time period to have the deficiencies corrected. The notice shall be given by sending a letter by certified mail to the address of the owner as shown in the current tax records kept by the Department of Finance. FAILURE OF THE PROPERTY OWNER TO COMPLETE THE REQUIRED CORRECTIVE ACTION IN THE SPECIFIED TIME IS A VIOLATION OF THIS SUBTITLE.

(4) If the property owner fails to correct the deficiencies within the specified time frame, the County may apply to the appropriate court for an order allowing the County to enter the property and to make, at the property owner's expense, the necessary repairs or replacement of the facility.

(5) Following entry of the order and completion of the repair or replacement, the County shall send to the property owner a bill for the costs to correct the deficiencies. If the bill is not paid within 30 days, the County may file with the court a verified statement of costs, for the purpose of entering a civil judgment in the County's favor against the property owner.

~~***Section 2. And Be It Further Enacted*** *by the County Council of Howard County, Maryland, that this Act shall become effective 61 days after its enactment.*~~

Section 2. And Be It Further Enacted *by the County Council of Howard County, Maryland that this Act is an Emergency Bill that is necessary to address an immediate emergency affecting public health, safety, or welfare, and having been passed by two-thirds of its members, this Act shall be effective immediately upon its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on April 5, 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. 10-2019

BY: The Chairperson at the request of the County Executive and Co-sponsored by Liz Walsh

Legislative Day 5
Date: April 1, 2019

Amendment No. 1

(This amendment declares that the Act is an emergency.)

In the title, in the last line, strike "and generally relating to Storm Drainage" and substitute "and declaring that this Act is an Emergency Bill necessary to meet an immediate emergency affecting public health, safety, or welfare".

On page 1, before line 1, insert:

"**WHEREAS,** as the County heads into rainier weather seasons, which in the last several years have caused catastrophic floods, loss of human life, damage to property and extraordinary use of public resources to combat flooding, there is an immediate need to remove harmful debris from waterways before the debris becomes a threat to public health, safety and welfare; and

WHEREAS, pursuant to Section 209(d) of the Howard County Charter, this Emergency Bill is authorized as it is necessary to meet an immediate emergency affecting public health, safety, or welfare.

NOW, THEREFORE,".

On page 4, strike lines 30 and 31, in their entirety, and substitute:

"***Section 2. And Be It Further Enacted*** *by the County Council of Howard County, Maryland that this Act is an Emergency Bill that is necessary to address an immediate emergency affecting public health, safety, or welfare, and having been passed by two-thirds of its members, this Act shall be effective immediately upon its enactment.*".

ADOPTED 4/1/19
FAILED
SIGNATURE

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 4

Bill No. 10 -2019

Introduced by the Chairperson at the request of the County Executive

AN ACT expanding and clarifying upon the purpose of Storm Drainage provisions in the Howard County Code; defining certain terms; allowing the authority to enter into certain buildings, structures or premises in order to take certain actions when there exists a possible impediment to the passage of water during rain events; clarifying that the failure of a property owner to complete certain corrective action is a violation of the Howard County Code; and generally relating to Storm Drainage.

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.

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1. *Section 18.500. Purpose.*
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4. *Subsection (a) of Section 18.504. Repair and maintenance of private storm drain facilities in residential areas.*

Title 18. Public Works.

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The purpose of this subtitle is to PROVIDE FOR THE PROPER FUNCTIONING OF THE STORM DRAINAGE SYSTEMS WITHIN THE COUNTY, INCLUDING WATERWAYS, TO prohibit certain stormwater and nonstormwater discharges [[into]]TO [[publicly and privately owned]] storm drainage [[facilities]]SYSTEMS or [[waterways and]]WATERWAYS, to [[provide for]]REQUIRE the repair and maintenance of privately owned storm drainage [[facilities]]FACILITIES, AND TO PROVIDE THAT THE FAILURE TO MAINTAIN CERTAIN PRIVATELY OWNED STORM DRAINAGE FACILITIES IS A VIOLATION OF THIS SUBTITLE.

Section 18.501. - Definitions.

Terms used in this subtitle have the meaning indicated.

(a) *Best management practice* shall have the meaning set forth in title 18, subtitle 9 of the Howard County Code.

(b) *Department* means the Department of Public Works.

(c) *Director* means the Director of the Department of Public Works or the Director's authorized designee.

(D) *DISCHARGE* MEANS:

(1) THE ADDITION, INTRODUCTION, LEAKING, SPILLING, OR EMITTING OF A POLLUTANT INTO THE WATERS OF THIS STATE; OR

([[k]]L) *Storm drainage facility* means a facility in which stormwater is collected or conveyed, including, without limitation, a road with a drainage facility, a municipal street, gutter, curb, inlet, piped storm drain, pumping facility, best management practice, reservoir, or other drainage structure.

(M) *STORM DRAINAGE SYSTEM* MEANS PUBLIC AND PRIVATELY-OWNED STORM DRAINAGE FACILITIES AND WATERWAYS.

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(a) *Generally*. Except as provided in subsection (b) of this section, the Director may enter any BUILDING, STRUCTURE, OR premises at any reasonable time for the purpose of enforcing this subtitle AND FOR PERFORMING DUTIES RELATED TO THIS SUBTITLE.

(b) *Consent*. The Director may enter a private dwelling to inspect for a violation of this subtitle with the consent of the occupant or owner. If entry is refused, the Director may seek a court order to permit entry to the dwelling.

(c) *Threat to Public Health and Safety*. UPON PROVIDING PROOF OF IDENTITY PRIOR TO ENTRY, THE [[The]] Director [[shall have the right to]]MAY enter a building, structure, or [[premises where]]PREMISES:

(1) WHERE there is evidence that a violation of this subtitle exists which threatens or may threaten the public health and safety for the purpose of performing duties pursuant to the provisions of this [[subtitle. The Director shall produce proof of identity prior to entry]]SUBTITLE; OR

(2) TO REMOVE NATURAL AND MAN-MADE OBSTRUCTIONS IN STREAM CHANNELS AND IN THE FLOODWAY OF STREAMS, WHICH MAY IMPEDE THE PASSAGE OF WATER DURING RAIN EVENTS. THIS PROVISION DOES NOT CREATE ANY RESPONSIBILITY OF THE COUNTY FOR THE CLEARANCE OR MAINTENANCE OF THE STREAM, OR FOR FLOODING, AND DOES NOT AFFECT THE RIGHTS AND OBLIGATIONS OF PRIVATE PROPERTY OWNERS REGARDING THE FLOODPLAIN OR MAINTENANCE OF STREAM CHANNELS.

(2) THE PLACING OF A POLLUTANT IN A LOCATION WHERE THE POLLUTANT IS LIKELY TO POLLUTE.

([[d]]E) *Hazardous material* means a material, including a substance, waste, or combination thereof, which, because of its quantity, concentration, physical, chemical, or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

([[e]]F) *Illicit connection* means either:

(1) A drain or conveyance, either on the surface or subsurface, which allows a discharge, prohibited under section 18.502 of this subtitle, to enter a public storm drainage facility or waterway, regardless of whether the drain or conveyance had been previously allowed, permitted, or approved by the Department; or

(2) A drain or conveyance connected to a public storm drainage facility or waterway which has not been documented in a plan, map, or equivalent record and approved by the Department.

([[f]]G) *National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit* means a permit issued by the Environmental Protection Agency or by a State acting under authority delegated pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to waters of the United States. The permit may be applicable on an individual, group, or general area-wide basis.

([[g]]H) *Nonstormwater discharge* means any discharge to a storm drainage facility or waterway that is not composed entirely of stormwater.

([[h]]I) *Person* means an individual, corporation, firm, partnership, association, organization, a group acting as a unit, or an executor, Administrator, trustee, receiver or other representative appointed according to law.

([[i]]J) *Pollutant* means anything which causes or contributes to pollution. A pollutant may include, but is not limited to, paints, varnishes and solvents, oil or other automotive fluids, nonhazardous liquid and solid wastes, yard wastes, refuse, rubbish, garbage, litter, other discarded or abandoned objects, ordinances and accumulations which may cause or contribute to pollution, floatables, pesticides, herbicides, fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, construction wastes and residues, noxious or offensive matter of any kind, or any other chemical substance.

([[j]]K) *Premises* means a building, lot, parcel of land, or portion of land whether improved or unimproved including, without limitation, adjacent sidewalks or parking strips.

Section 18.504. - Repair and maintenance of private storm drain facilities in residential areas.

(a) Single Residential Lot Storm Drainage Facilities:

(1) Privately owned storm drainage facilities which are associated with the development of a lot or parcel for a single residence and which primarily benefit the owner or user of the lot or parcel shall be the responsibility of the property owner to maintain, repair, or replace.

(2) The repair or replacement of any storm drainage facility associated with the development of a lot or parcel for a single residence may be made by the property owner after written approval is obtained from the Department, and the work shall be done in accordance with such approval.

(3) If the County determines that deficiencies exist in a private stormwater drainage facility associated with the development of a lot or parcel for a single residence, the County shall give notice to the property owner in writing of the deficiencies, describe the required corrective action, and the time period to have the deficiencies corrected. The notice shall be given by sending a letter by certified mail to the address of the owner as shown in the current tax records kept by the Department of Finance. FAILURE OF THE PROPERTY OWNER TO COMPLETE THE REQUIRED CORRECTIVE ACTION IN THE SPECIFIED TIME IS A VIOLATION OF THIS SUBTITLE.

(4) If the property owner fails to correct the deficiencies within the specified time frame, the County may apply to the appropriate court for an order allowing the County to enter the property and to make, at the property owner's expense, the necessary repairs or replacement of the facility.

(5) Following entry of the order and completion of the repair or replacement, the County shall send to the property owner a bill for the costs to correct the deficiencies. If the bill is not paid within 30 days, the County may file with the court a verified statement of costs, for the purpose of entering a civil judgment in the County's favor against the property owner.

Section 3. And 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. 10-2019

BY: The Chairperson at the request of the County Executive and Co-sponsored by Liz Walsh

Legislative Day 5
Date: April 1, 2019

Amendment No. 1

(This amendment declares that the Act is an emergency.)

In the title, in the last line, strike "and generally relating to Storm Drainage" and substitute "and declaring that this Act is an Emergency Bill necessary to meet an immediate emergency affecting public health, safety, or welfare".

On page 1, before line 1, insert:

"**WHEREAS,** as the County heads into rainier weather seasons, which in the last several years have caused catastrophic floods, loss of human life, damage to property and extraordinary use of public resources to combat flooding, there is an immediate need to remove harmful debris from waterways before the debris becomes a threat to public health, safety and welfare; and

WHEREAS, pursuant to Section 209(d) of the Howard County Charter, this Emergency Bill is authorized as it is necessary to meet an immediate emergency affecting public health, safety, or welfare.

NOW, THEREFORE,".

On page 4, strike lines 30 and 31, in their entirety, and substitute:

"***Section 2. And Be It Further Enacted*** *by the County Council of Howard County, Maryland that this Act is an Emergency Bill that is necessary to address an immediate emergency affecting public health, safety, or welfare, and having been passed by two-thirds of its members, this Act shall be effective immediately upon its enactment.*".

Sayers, Margery

From: DIANE BUTLER <politicodiane@msn.com>
Sent: Monday, April 1, 2019 10:18 AM
To: CouncilMail; Ball, Calvin B
Subject: CB10

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

After the work session for this bill, I have a few comments.

In the PURPOSE section 18.500 Line 19 says "drainage systems or waterways, to REQUIRE the repair and maintenance of privately owned storm drainage facilities (instead of PROVIDE for ...) which is a huge difference.

This ambiguity depends on the mood of the enforcement official of the day. There is a big difference in "provide for" and Require. I understand the need for access, but the verbiage in the bill needs to be very clear about "illegal discharge" versus "storm water discharge from sump pumps" and also about "illicicit connections".

In the Definitions section 18.501 the new section F: Illicit connection means either:

#1 You have quoted 18.502 in this section, but 18.502 needs clarification of "uncontaminated pumped groundwater" to include sumps pumps, that are put directly into the county system.

#2 A drain or conveyance connected to a public storm drainage facility or waterway which has not been documented in a plan, map, or equivalent record and approved by the department. YOU NEED TO ADD "WHICH ALLOWS AN ILLEGAL DISCHARGE", not just plain old stormwater. You need to be very clear about this as many of the old neighborhood homes have sumps for stormwater management that connect private systems directly to public systems, and this language does not cut it.
(And seriously, the county has lost so many of their records that this CANNOT come back on the homeowner). At the work session the county guy was saying that they will not go after these homeowners that have storm water management pumps, just illicit discharge to clean out equipment using normal practice and common sense, but the law supercedes this, and it needs to say that right in the law. That they will not be coming after homeowners for storm water. Currently, it says the opposite.

The language is specific in the bill about easements, etc. yet the county allowed the easement on my property to be placed "not where the pipes are, but along the edge of the property". This is the county's fault, not mine. Your "cleaning up" language in this bill makes my property illegal, in more than one aspect.

Frankly, Dunloggin is way older than Columbia, and has not had a storm water infrastructure upgrade in 60 years. Cost sharing is an insult. Do the stormwater upgrades that need to be done for the homeowners. We have paid taxes for many years. This bill makes the homeowner liable since the county hasn't done the specific storm drain management in 60 years. I am hoping the Ben Cardin's Army Corp of Engineer's plan will come up with some real fixes for this watershed. I am tired of living in swamp. But, if you cut off my ability to move the

sump water (county ordered, and developer built) away from my home, this water will be in my basement and once a house is wet inside, it is never the same.

The letter of the law needs to match the intent of the law.

Thanks,
Diane Butler
410-461-0066

PS Please let me know your thoughts, or if you need any clarification. I have worked on many of the committees the county has had for this including the APFO, the RT 40 committee, and the infill committees. My daughter also worked on the READY program and the county WAS THE WORST AT MAINTAINING THEIR RAIN GARDEN systems that were built for them, over the years.

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

March 29, 2019

The Honorable Christiana Mercer Rigby
Chairperson, Howard County Council
George Howard Building
3430 Courthouse Drive
Ellicott City, MD 21043

Re: Council Bill No. 10-2019

Dear Ms. Rigby:

The Columbia Association (CA) maintains more than 4,000 acres of 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. Most of open space is in Columbia's stream valleys and surrounds 34 miles of streams.

CA supports the overall intent of CB 10-2019, which will help to reduce flooding emergencies and help eliminate pollution of our waterways. However, CA is concerned that as currently written, CB 10-2019 does not address or acknowledge the existing easements that already grant the County Right of Entry. CA agrees that timing could be critical when faced with the prediction of a large rain event and reports of large amounts of debris in a drainage way. Searching records to find plats that show easements and locating the deed that dedicates the easement can take days. However, the easements were granted and accepted by Howard County with the intent that Howard County will use them as necessary and the understanding that Howard County will comply with their terms. Howard County should know where it has existing drainage easements and which ones are dedicated. Where it does not already have a Right of Entry, this bill resolves the problem and gives the County a Right of Entry until it has accepted an easement. Where an easement already exists, however, the County's right of entry should be governed by that document.

For these reasons, CA respectfully requests that CB 10-2019 Section 18.503 (c) line 20, be amended to say that *"WHERE A DEDICATED EASEMENT GRANTING THE RIGHT TO ENTER IS NOT ALREADY IN PLACE,* UPON PROVIDING PROOF OF IDENTITY PRIOR TO ENTRY, ..."

Respectfully submitted,

Milton W. Matthews
President/CEO

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

March 29, 2019

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Chairperson, Howard County Council
George Howard Building
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The Columbia Association (CA) maintains more than 4,000 acres of 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. Most of open space is in Columbia's stream valleys and surrounds 34 miles of streams.

CA supports the overall intent of CB 10-2019, which will help to reduce flooding emergencies and help eliminate pollution of our waterways. However, CA is concerned that as currently written, CB 10-2019 does not address or acknowledge the existing easements that already grant the County Right of Entry. CA agrees that timing could be critical when faced with the prediction of a large rain event and reports of large amounts of debris in a drainage way. Searching records to find plats that show easements and locating the deed that dedicates the easement can take days. However, the easements were granted and accepted by Howard County with the intent that Howard County will use them as necessary and the understanding that Howard County will comply with their terms. Howard County should know where it has existing drainage easements and which ones are dedicated. Where it does not already have a Right of Entry, this bill resolves the problem and gives the County a Right of Entry until it has accepted an easement. Where an easement already exists, however, the County's right of entry should be governed by that document.

For these reasons, CA respectfully requests that CB 10-2019 Section 18.503 (c) line 20, be amended to say that *"WHERE A DEDICATED EASEMENT GRANTING THE RIGHT TO ENTER IS NOT ALREADY IN PLACE,* UPON PROVIDING PROOF OF IDENTITY PRIOR TO ENTRY, ..."

Respectfully submitted,

Milton W. Matthews
President/CEO

CB 10 - 2019

Sayers, Margery

From: Paul Marzin <paul.marzin@gmail.com>
Sent: Monday, March 25, 2019 8:41 AM
To: CouncilMail
Subject: CB10 written testimony
Attachments: Marzin testimony - CB10.pdf

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

Please accept my written testimony for the support of CB10.

Thanks,

Paul Marzin

Dear Howard County Council Members,

I am writing in my support for the proposed CB10 legislation. An ACT expanding and clarifying upon the purpose of Storm Drainage provisions in the Howard County Code.

I believe that the County should work with property owners regarding the existence of impediments to the passage of water during rain events. With emergency response, I believe it makes no sense not to allow County officials to assist and remedy impediments to the passage of water and especially when this can endanger others. Both parties need to communicate and understand the details of the problem. If property owners are not present, then I have no problem with County officials responding appropriately to the the issue on their own.

In addition, I do think property owners should be held accountable for corrective actions to their part of a problem. For example, water flowing down the side of a road on private property with obstructions that are removable with a little bit of effort. I would think it would be in everyone's best interest to ensure that water is managed appropriately.

Thank you,

Paul Marzin

Sayers, Margery

From: Joseph Rutter <jrutter_1@live.com>
Sent: Saturday, March 30, 2019 2:06 PM
To: CouncilMail
Subject: Council Bill 10-2019

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

An email with an attached letter was sent to the Council by email on March 29, 2019. The email included the following:

I would also like to note that while the majority of the Board reached consensus on this issue, our Vice Chairman, Mr. Joe Rutter did not concur with the concerns expressed in the letter.

The main concern the Board has is regarding the broad right of entry onto private property that appears to be part of this bill, and what this could mean for rural landowners that have streams on their property. Board members generally agreed that limiting this policy to the flood prone areas of Ellicott City where the problems exist may be a better solution than making the legislation broadly applicable to the entire county.

I want to let the Council know why I as a Supervisor did not concur with the HSCD testimony.

Individual members of the Board of Supervisors see CB 10-2019 as government overreach and I am fine if they as individuals want to express their opinion to the Council. What I object to is using the HSCD letterhead, staff resources and the signature of the Chair to lend more credence to the position of individuals when the HSCD is in fact a "government body" primarily funded by the County.

My issue is public safety. I do not care what business a property owner is operating or if they own a residence, if they are allowing a threat to public safety to exist on their property it is a basic duty of government to protect the public by following the law. In the case of CB 10 that means contacting the property owner and ASKING for permission to abate the safety issue. Failing receipt of permission from the owner the County may go to court for an order allowing entering the property to protect the public. That in my opinion is not overreach and that is why I object to using the prestige of HSCD to influence the Council to restrict the ability of the County agencies to do the job and protect the public.

The HSCD letter attempts to justify stream blockage as environmentally beneficial. Under circumstances where features are properly designed and constructed, (a proper role for HSCD is to assist in that engineering and design) mitigation measures such as coastal plain outfalls, check dams and many other techniques can in fact accomplish all of the benefits listed in the HSCD letter. Under circumstances where a land owner just lets trees, trash and woody debris block streams and create flooding and damage to downstream property CB 10 allows for a process to protect the public.

As the Supervisor appointed by the County Governing body (County Executive nomination confirmed by the County Council) I object to the letter and its misuse of the HSCD resources based on individual concerns about "over-reach".

Sayers, Margery

From: Plummer, David
Sent: Friday, March 29, 2019 5:01 PM
To: CouncilMail
Cc: justin@levellandinc.com; Justin Work (jbren40@gmail.com)
Subject: Howard Soil Conservation District concerns regarding CB10-2019
Attachments: CountyCouncil - CB10-2019.pdf

Dear Howard County Council,
I am forwarding the attached letter on behalf of the Howard Soil Conservation District Board of Supervisors, in regard to CB10-2019 related to Storm Drainage provisions in the Howard County Code. I apologize for not getting this information to you sooner, but the legislation arose between our monthly meetings and Board members did not have an opportunity to thoroughly discuss the issue and formulate a position on the policy until our Board of Supervisors meeting yesterday. Everyone on our Board is compassionate to the flooding problems in Ellicott City, but there are concerns that when applied across the whole county, this policy could have serious repercussions for private landowners and farmers. I would also like to note that while the majority of the Board reached consensus on this issue, our Vice Chairman, Mr. Joe Rutter did not concur with the concerns expressed in the letter.

The main concern the Board has is regarding the broad right of entry onto private property that appears to be part of this bill, and what this could mean for rural landowners that have streams on their property. Board members generally agreed that limiting this policy to the flood prone areas of Ellicott City where the problems exist may be a better solution than making the legislation broadly applicable to the entire county.

We appreciate your time and consideration of our concerns and we hope there is an opportunity to discuss the policy in more detail. Regards – David

David C. Plummer, District Manager
Howard Soil Conservation District
14735 Frederick Road
Cooksville, MD 21723
410-313-0680; www.howardscd.org

Howard Soil Conservation District
14735 Frederick Road • Cooksville, MD 21723 • Phone 410-313-0680 • Fax 410-489-5674
www.howardscd.org

March 29, 2019

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

Dear Howard County Council:

The Howard Soil Conservation District (HSCD) Board of Supervisors would like to express some concerns we have regarding Council Bill 10-2019, which relates to Storm Drainage provisions in the Howard County Code. While we recognize that this legislation is part of the County Executive's Ellicott City Safe and Sound Plan, we are also apprehensive about the unforeseen repercussions this policy would have on private property rights and the natural environment. We recognize the need to address the extreme flooding problems in Ellicott City, but we ask that the County Council give careful consideration to applying this policy across the entire county, particularly in the agricultural portions.

One of the most concerning parts of the Bill is the right of entry into any "…Building, Structure, or Premises". It appears that the original code focused on stormwater management facilities, but by adding the new language related to "Storm Drainage Systems" and including all waterways, this regulation may be applied to every stream in the county. Furthermore, the County could force a landowner to remove debris or charge a landowner fines for having County personnel remove debris. While we recognize this debris removal may represent a public safety concern in Ellicott City, it could also result in a major expense for a farmer that has long sections of stream valley on her property. Implementing this policy in the rural areas of the county could create a significant economic burden on landowners.

We also have some environmental concerns about this policy. While removing logs, branches and other debris from a highly urbanized watershed like Ellicott City may prevent culverts from being blocked and allow for the rapid dissipation of flood waters, doing the same along rural streams may have other consequences. For starters, woody debris in streams creates a variety of habitat for both aquatic and terrestrial wildlife. In addition, the obstructions created by logs and debris slow floodwaters down and allow the streams to overflow into the floodplains adjacent to streams. This serves a number of purposes, including: dissipating some of the erosive energy from the stream channel, creating vernal pools which provide habitat for amphibians, depositing sediment loads on floodplains rather than transporting the full load downstream, and maintaining hydric soil conditions that may favor native plant communities. Based on the hilly terrain and impervious conditions present in Ellicott City, this policy may hold much merit, but when applied to other parts of the county it may do more harm than good.

Our Board of Supervisors has concerns about the potential for overreach contained in this policy. The prospective taking of private property rights outlined in this bill should be cause for concern for everyone. We feel that rural landowners and farmers in the County could be negatively impacted by this legislation, and we would like to work with you to insure that it does not create unforeseen burdens that we will all regret. We all want to find a solution to the Ellicott City flooding problem. The HSCD Board of Supervisors respectfully requests that you focus this legislation where the problem exists and not apply it to the entire County.

Respectfully,

B. Justin Brendel
Chairman, HSCD Board of Supervisors

2019 CB-10

March 17, 2019

My name is Ron Peters, I have been involved in the flood issues of Ellicott City for along time. Dating back to Hurricane Agnes in 1972. Recently I was part of the Ellicott City flood workgroup , starting in June of 2015. I've spent many hours in the Ellicott City watershed , looking at mitigation possibilities, I've walked just about the entire watershed, multiple times. While driving in surrounding counties and States I'm now constantly looking at storm water mitigation areas, where before I never gave it a second thought . Some of the things I've noticed during my walks were increasing numbers of debris piles of fallen trees, washed out rocks, boulders, concrete slabs, tons of sediment , steel beams, lumber, pipe,etc. I would ask at our flood work group meetings , why can't the county clean out the channels , tributaries and under the buildings. The answer was , because it's private property, we don't have the needed permission to go onto private property. So if they got access to one property and not the adjoining properties, it wouldn't do much good to clean out one small section, the access needs to be for all the channels in the watershed , top to bottom to make a real impact.

I've learned that Storm water detention projects take years to complete, I mean to get started. But I always thought we should be cleaning out the channels now , we don't need to wait on engineers to tell us how to clean out debris .

If this bill will help with the Tiber, Hudson, Autumn Hill and Newcut cleanout and removal of debris piles I'm all for it .

I've included some photos I've taken in the watershed showing debris piles after the floods and also many that still need to be cleaned out. I would like to also mention that not all the property in the watershed is private property, while taking a walk yesterday above Merryman street in the Tiber tributary, just three hundred yards upstream from where Merryman changes to Hill street, the elevation changes from 195 feet to 250 feet in about 100 yards , a beautiful section of the watershed, but at the top is a large pile of downed trees, lying in the creek , just waiting for the next big storm to cause them to float down Merryman and on to lot D. I checked my app to see who's property they were on and found they are on property belonging to Howard County. So while waiting for this bill to pass , I would like to see Howard county step forward and start the clean up on County property.
Thanks for your time .

TIBER WATERSHED BEBRIS LOCATIONS

8440 MERRYMAN STREET LOOKING SOUTHWEST

TIBER WATERSHED

NEAR TOP OF WATER FALLS LOOKING TOWARDS MERRYMAN ST

TIBER WATERSHED

LOOKING UP THE TIBER 100 YARDS FROM MERRYMAN ST

TIBER WATERSHED

DEBRIS COLLECTION ON THE TIBER 200 YARDS FROM MERRYMAN ST

AUTUMN HILL

500 YARDS BELOW BRITTANY

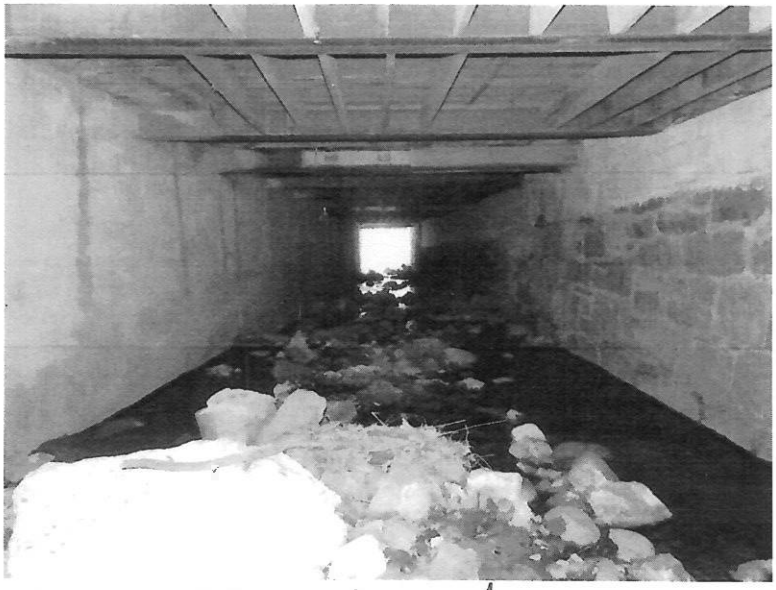
AUTUMN HILL

450 YARDS BELOW BRITANY DRIVE

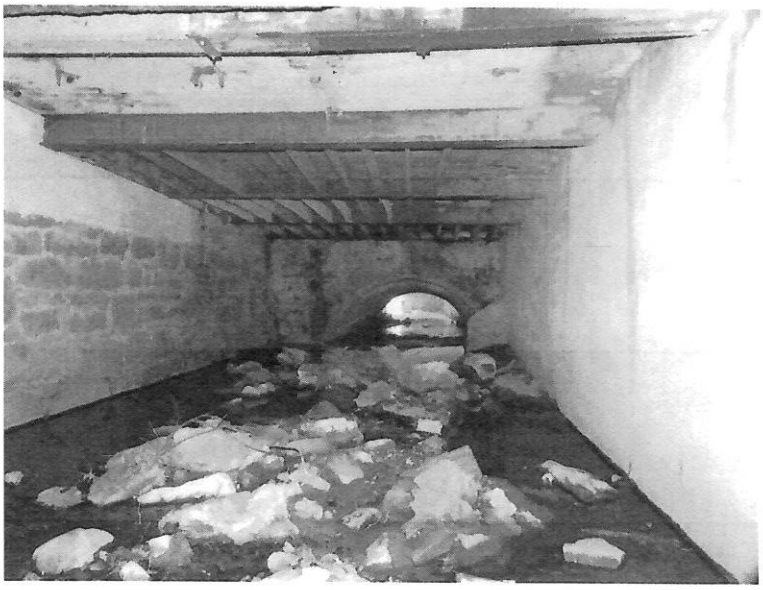
TIBER WATER SHED

OLD CAR AND OTHER DEBRIS 600 YARDS ABOVE MERRYMAN STREET

Arched Culvert under main Street
Over Three feet of silt and
gravel restricting flow



Channel under Lapatupa
has tons of debris that
needs to be removed



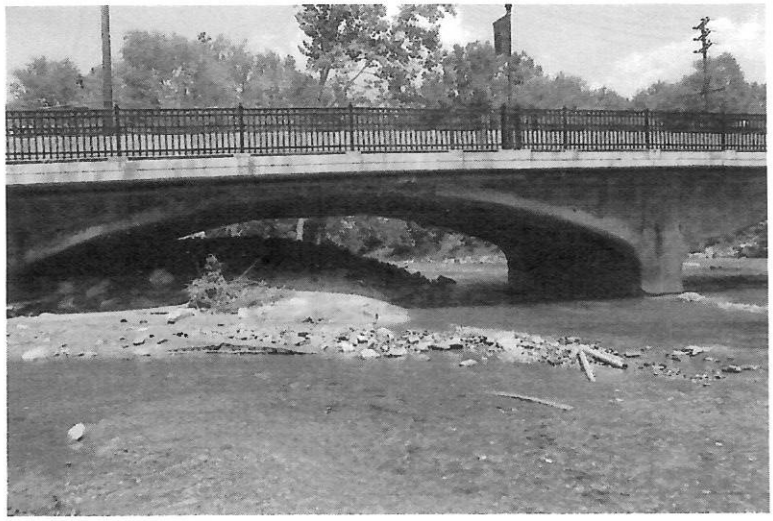
Looking towards the arched
Culvert under main street

Three feet of
sediment under the
arched culvert at
main street

2016 Flood, Floating debris Knocked a hole into the House 8600 Block Westend

2016 debris clean up at Ellicott Mills

Tons of stone debris under the buildings on Lower Main Street

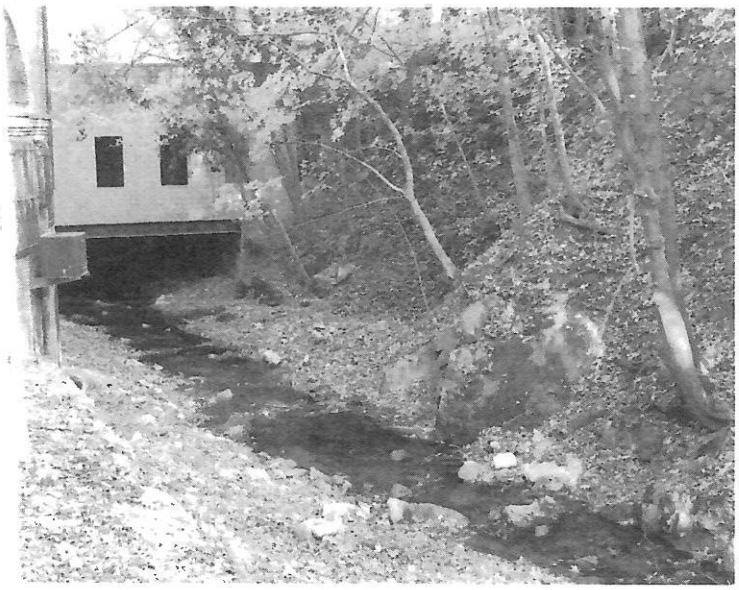


One of the three arched Sections of the bridge over the patapsco is extremely clogged.

The Hudson behind Houses in Westend, shows debris that needs to be removed from private property

Channel behind Westend houses shows debris that should be removed.

2018 Flood damage at Court Ave shows sediment and debris from Ellicott Mills washout



Ceplan's before 2018 Flood during reconstruction

Ceplan's after 2018 Flood.

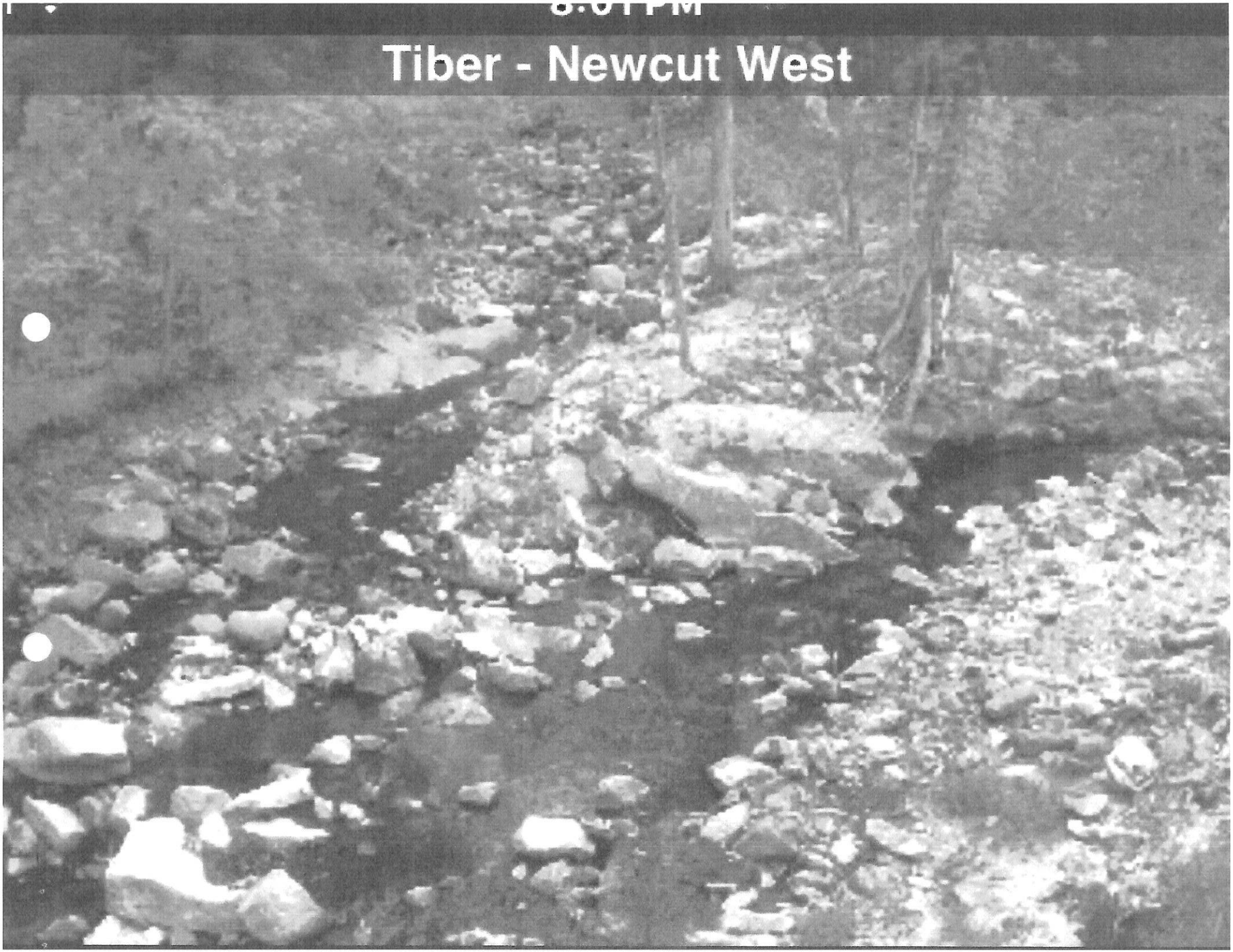
Ceplan's after 2018 Flood, shows how much Floating debris came thru the building

108/84 Culvert, 2016 Flood, Left over debris

2016 Flood Westland debris pile

Merryman Street 2016 Flood, Porch has collapsed in 2018 Flood

2016 Flood Court Rue debris Cline


Tiber - Newcut West