

**Howard County Council Public Hearing on CB38
Monday, September 23, 2019**

Testimony by

**John Fritz
5824 Judge Dobbin Ct.
Elkridge, MD 21075
410.245.2226**

Good afternoon. My name is John Fritz. I live at 5824 Judge Dobbin Ct., Elkridge, MD, in the Gables at Lawyer's Hill community adjacent to the Lawyer's Hill Overlook development project approved by the Howard County Planning Board last Thursday, September 19. I also work at the University of Maryland, Baltimore County (UMBC) as an IT administrator.

First, I want to thank Councilwoman Walsh, not only for her proposed council bill, which I support, but also for her testimony in the quasi-judicial hearing about the LHO development on September 5. It was an excellent primer on environmental public policy, and epitomized what I hope for in a public servant. Thank you, Ms. Walsh.

Still, I am here today to voice my support for CB38, primarily because of what I and my neighbors experienced during the past 4-5 months trying to share our concerns about the LHO project with the Howard County planning board. In short, they ignored us and couldn't even pretend to care about the environmental impact that common sense suggests would happen when you clear, scrape and pave over 72% of an 8 acre site that sits on top of hill, in favor of maximum density consisting of 17 homes. It was a

horrible experience where I and my neighbors were not just cross-examined, but harassed.

I got involved when my wife came back from a community meeting nearly a year ago with the site developer, who essentially told the assembled residents that, as lay people, they lacked the expertise to understand the environmental impact plan his firm had commissioned. Well, that bugged me for two reasons: first, it was rude and condescending, but second, and perhaps more importantly, why was the developer -- and not the county -- responsible for assessing a site's environmental impact on neighboring communities, especially those who live downhill from it?

I still don't have an answer to this question, but since I work at a university, I decided to reach out to my UMBC colleague, Matt Baker, a professor of environmental science and expert in hydrology, to see if he'd review the developer's preliminary sketch plan. He did so in early June and also toured the perimeter of the site with permission of adjacent neighbors. He provided an excellent written summary and also oral testimony on July 25, in which he explained what would likely happen downhill and downstream.¹

To be honest, you could have heard a pin drop, and to their credit, I saw several planning board members paying rapt attention, and some even writing notes. But when they entered into working session late last Thursday night, not one of them even

¹ Note: The HoCo planning board's quasi-judicial hearing on this matter did not allow prepared, written testimony to be submitted before hand. However, the Professor Baker had done so for the June 6 hearing (see tinyurl.com/mbakerhotestimony), which was continued to July 25. His oral testimony for July 25 can be seen at time code 1:09:09 of the Howard County video archive at http://howardcounty.granicus.com/MediaPlayer.php?clip_id=3962

referenced Baker's testimony, even though our attorney, Catherine Robinson, featured it prominently in her closing just a few minutes earlier. To be honest, all we heard in justifying their 4-1 vote in favor was why the original RED zoning tied the planning board's hands, even though they could have modified the density to mitigate runoff, which I and my neighbors were amenable to as well.

In conclusion, I am supporting CB38 primarily because I see no other means at my disposal as a citizen, to get this county and administration to slow down development in order to study its current runaway impact. I want the county to enforce the laws on the books and stop the near rubber stamp approval of waivers and alternative compliance.

Climate change is real and we're not keeping up with the water we have already. The best defense is keeping trees and ground cover in place, not replacing them with a permanent trough of concrete and asphalt. Hoping is not planning.

Last October, the *Baltimore Sun* reported on a change.org petition, "Stop Uncontrolled Development in Elkridge & Hanover," that (at that time) had "more than 500 signatures."² It now has over 1,000 signatures. The people do not want this. *The Sun* also quoted then candidate for County Executive, Calvin Ball, who said "Overdevelopment does threaten quality of life in many of our communities, including Elkridge." My question is simply this: "if not now, when" will you address this threat? I and my fellow neighbors and citizens will be watching and (yes) voting.

Thank you for your time and consideration of my community's concerns.

² See <https://www.baltimoresun.com/maryland/howard/ph-ho-cf-elkridge-petition-1006-story.html>

To: Howard County Council
Madam Chair and Members

From: Jack Milani
2820 Shadow Roll Court
Glenwood, Md 21738

Date: September 23, 2019

Re: Undeclared Council Bill 38 - 2019

My name is Jack Milani and I am testifying on CB38 in order to get clarification on the effect the bill will have on primarily Troy Park and Rockburn Branch Park future projects.

I have been involved in youth athletics in Howard County for approximately 21 years. This involvement has included Baseball, Field Hockey, Football and Lacrosse. I have served in various capacities in these sports. I have also been involved with Recreation and Parks as well as the Board of Education working to provide and improve primarily athletics facilities for the youth and adults in Howard County. I was originally recruited to youth sports by my brother Mike who is still with Recreation and Parks. I am not always sure if he considers that recruitment a good or a bad decision.

I am very familiar with the legislative process at the state level but not very familiar with the local process. Is a legislative analysis or a fiscal note generated at the local level? I ask this because I am concerned about completion of phases 3, 4 and 5 at Troy Park which includes a maintenance facility, baseball fields, additional parking and most importantly a community center. I am also aware that a multi-purpose field is budgeted in the future at Rockburn Park. Having been involved in the community meetings held for Western Regional, Blandair Park and Troy Park I am very familiar with the role that community input plays in final development of the parks design. In order for the communities who have been involved in planning Troy Park as well as Rockburn Park improvements to know how this bill impacts them I would ask that the following questions be researched and the answers made available to the community and the council prior to taking final action on this bill. What currently planned projects in Troy Park and Rockburn Park could not be completed if this bill were to be passed? What is the fiscal impact to these projects if this bill were to be passed?

I certainly understand the intent of the bill and realize that you are searching for the correct solution. I am asking that you consider this request as you work on the bill.

Thank you for your consideration.

If you require any additional information:

Jack Milani

410-340-0598



6240 Old Dobbin Lane ■ Suite 110 ■ Columbia, MD 21045

September 10, 2019

Ms. Christiana Rigby
Chair, Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

RE: CB 38 – The Patapsco Lower North Branch Bill

Dear Councilwoman Rigby:

Throughout its history, Historic Ellicott City has been prone to flooding. Floods of 2016 and 2018 have many calling for more stringent requirements to development impacting the historic district. Since 2018, a development moratorium has been in place for the historic district until further studies could be completed. Like many county residents and property owners, the Chamber agrees that the historic district and surrounding neighborhoods are jewels that should be protected.

As with most legislative matters, it's not the intent that is questioned but rather the details. What started out as protecting Historic Ellicott City from flooding has seemingly expanded to the entire watershed and now impacts both Ellicott City and Elkridge. It is important that legislation balance environmental concerns with business and marketplace realities. In our opinion, this legislation does not do that.

If the legislation before us passes, the County stands to be impacted in a myriad of ways. This legislation prohibits an inordinate amount commercial and residential activities thereby impacting land usage and redevelopment in Route 1, a key commercial thoroughfare. There are also inconsistencies with previous adopted county policies and plans. Not to mention, this bill threatens key public facilities yet to be built in the Elkridge community namely that of HS 14 and impacts utility maintenance and infrastructure expansion. Lastly, it lessens the value of land because of the increase percentage of land now dedicated to easements.

For the reasons outlined above, the Howard County Chamber respectfully opposes CB 38 and request a "No" vote.

Respectfully,

A handwritten signature in black ink that reads "Leonardo McClarty". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Leonardo McClarty, CCE
President/CEO, Howard County Chamber

CC: Dr. Calvin Ball, Howard County Executive
Howard County Chamber Board of Directors
Legislative Affairs Committee

From: burnetchalmers@outlook.com
To: burnetchalmers@outlook.com
Subject: Testimony on CB-38 - Howard County, MD

My name is Burnet Chalmers. I live at 6560 Belmont Woods Road, Elkridge, MD 21075. I'm a lifelong resident of Howard County.

Please – all council members – support CB-38 or a slightly amended version as may be needed so that you can support it.

Our zoning process has evolved to the point where waivers, fees in lieu of and various exceptions seem to be common practice. Exceptions and waivers should be occasional, not a matter of course. Fees in lieu of should be extremely rare or, perhaps, non-existent.

In 1972 Hurricane Agnes caused extreme flooding in our area. It inflicted extensive damage in the Patapsco River Valley, including Ellicott City and Elkridge. After Agnes, Howard County took a strong leadership position developing storm water laws and regulations. One of my daughters is a wetlands specialist with Vermont Department of Natural Resources. She told me that Vermont and several other states modelled their laws and regulations after those developed here after Agnes. She asked what went wrong that allowed such intensive development in our area that contributed to devastating flooding of Ellicott City twice in recent years. My answer was that, very sadly, many years of waivers, fees in lieu of and various other exceptions took the teeth out of our laws and regulations. One example is the apparent disregard of Maryland's Forest Conservation Act by Howard County DPZ.

The word radical means return to basics or roots. A dictionary example is "a radical overhaul of the existing regulatory framework." Once far off course, radical action is needed to return to basics or roots.

You are a fresh group of new County Council Members.

- Please take a fresh look at the mess you have inherited in our DPZ process.
- Please work together to resolve it by supporting CB-38 or an amended version as you deem necessary.
- Please get Howard County back to basics; back to its roots of good stewardship.

Thank you for the opportunity to present my testimony.

Burnet Chalmers
410-591-2519
burnetchalmers@outlook.com

Please note my new email address burnetchalmers@outlook.com
bchalmers@milbyco.com will no longer be used.

Testimony for CB38-2019 September 16, 2019, continued to September 23, 2019

I'm Leila Mahlin of Columbia, please pass CB 38.

To start there's data that contradicts the following three claims previously made by others in testimony-

- 1) That a "woods in place" construction would have resulted in only a 20% hydrology improvement,
- 2) That the majority of the environmental and storm water damage has been caused by pre-1980 factors and that
- 3) New development can fix the problems.

Since 1980 the County population tripled, 2/3 of the homes were built since then, and there was **lack of** regulatory Storm Water revisions until post 1999. These were major contributing factors to our current flooding situation along with our Land Use practices going back 200+ years. To say otherwise appears a ploy to change the narrative. If the post 1980, or post 1999 development industry in Howard County had the solution why hasn't it shown in results? We applaud those coming up with development solutions, but this is a complex problem that we are still figuring out.

-In development we need to think in terms of "Compact-Environments" or *smaller less developed areas*. These streams, open space, and forests are a critical conduit to our "Greenways". When these areas are degraded – *collectively*- they impact the county as a whole.

When an environmental feature becomes an obstacle to development, the tendency is to "transfer" the feature to less developed areas.

-Sending (a feature) away from its "natural state" often *harms the original area*.

-Areas with existing development become **more** vulnerable as the protective surrounding environment is removed. Look at Old Ellicott City...

-To keep all of our county protected we **can't act** as if **conceding** some Compact-Environments **won't matter**.

Four areas in the code that create vulnerability to Compact Environments are:

-Open space removal

-Fee-in-lieu payments used for replanting off site,

-Smaller subdivisions not having the same requirements of forest retention maintenance agreements

-Stormwater management exemptions for development of less than 5,000 square feet

To put this 5,000 square feet in perspective...

- Howard Countians live in apartments 1/10th this size.

- A two story mansion of this size is 10,000 square feet, or 4 times the size of average single family home
- yet 5,000 square feet is exempted from Stormwater management???

Let's revisit how these exemptions and waivers are granted so that the little drops of rain in this Compact-Environment **here** don't become a flood **there**.

CB 38 should pass and we need to move forward with implementing other changes to the code to tighten protection for all.

END TESTIMONY

SOURCES-

Census data

- 1) Population has almost tripled since 1980. Article shows about 110K in 1980 and about 320K in 2017 Diversity by the numbers: As Howard County has grown, so has its racial and cultural mix. By CHRISTINE ZHANG THE BALTIMORE SUN | JAN 30, 2019

Currently 115, 289 households in HoCo Census data from 2017 <https://censusreporter.org/profiles/05000US24027-howard-county-md/>

- 2) \$444,500 Median value of owner-occupied housing units, **about 1.4 times** the amount in Maryland: \$312,500, **about double** the amount in United States: \$217,600. <https://censusreporter.org/profiles/05000US24027-howard-county-md/>

- 3) Below is source for housing build start dates in Howard County by decade.

<https://www.towncharts.com/Maryland/Housing/Howard-County-MD-Housing-data.html>

- 4) *Below generally shows that most stormwater initiatives in smaller communities (less than 100,000) were not required until 1999. This is from a report about Maryland...* LEM

In 1990 and 1999, EPA issued regulations in response to the 1987 amendments (55 FR 47990, November 16, 1990) and (64 FR 68843, December 8, 1999). Those rulemakings are referred to as EPA's Phase I and II stormwater rules, respectively. In general, the Phase I rule requires permits for MS4s for medium and large communities (those with populations greater than 100,000), departments of transportation serving those communities, construction sites with land disturbance of five acres or more, and industries in 10 industrial categories. In general, the Phase II rule requires stormwater controls for smaller MS4s, smaller construction sites, and other industries discharging stormwater (Franzetti, N.D.). Water quality professionals typically refer to the federal stormwater regulations based on the category of dischargers affected: (1) construction-related entities, (2) MS4s, and (3) industries. EPA Region III has organized its review of state stormwater programs and

this report accordingly. Some states organize and title their programs similarly, while others do not. MDE typically refers to its programs as follows: ESC, stormwater management, NPDES permits, and MS4s. NPDES permits include general and individual permits for construction and industrial stormwater.

Source: Summary Final Report Maryland Stormwater Program Review U.S. Environmental Protection Agency

https://www.epa.gov/sites/production/files/2015-07/documents/final_md_sw_summary_3.17.14.pdf

- 5) • In 2000 regulatory revisions; Design Manual • Water Quality, Recharge, and Stream Channel Protection and Flood Control • Optional Runoff Reduction Credits. History: MD SWM Regulations

<http://www.pscp.state.md.us/FPMeetings/05102012/Environmental%20Site%20Design%20Presentation%20-%20Brian%20Clevenger,%20MDE%205-10-12.pdf>

- 6) McCormick and Taylor 2017 study release on Ellicott City - Improvements will improve OEC by up to 74%, also refutes point that woods in place would only improve by 20%

The “Woods in good condition” discharge numbers for 10 year events range from 36 to 48% difference or improvement. The differential isn’t as great as you go up in “year events” to 100. So the most likely occurrence events have a better return on reduction in cfs than the longer/less likely events....

Also note Manning’s Roughness Values

Howard County Housing Affordability Coalition

County Council Public Hearing

September 23, 2019

Council Bill 38-2019 Testimony

The Housing Affordability Coalition is opposed to Council Bill 38-2019.

If CB 38 passes as introduced, it will stop development of one, and possibly two mixed income projects that are well into the development pipeline and it will threaten if not squander \$27 million of State-approved nine (9) percent low income housing tax credit awards and another \$2.3 million of State funding support. Stoppage of Ellicott Gardens 2 and Riverwatch II would result in the loss of as many as 120 new affordable housing units.

The Coalition understands and certainly supports the public safety and environmental intent of CB 38. We strongly believe, however, that both objectives can be met without negating development of housing that will provide financial relief to households earning 40-60 percent of the County's median income. And we believe public safety and environmental needs can be met without dis-incentivizing the public/private partnerships that are going to be crucial to chipping away at the momentous number of affordable units necessary to meet the housing needs of our County's middle and low income workers.

Our position is that these critical land use issues merit further collective and collaborative discussion and option development. The soon to be initiated Housing Affordability Master Plan and General Plan processes offer opportunities for such development.

We wish to ensure that any new land use policy and implementing zoning regulations reflect holistic attention to the breadth of our community's needs; and specifically, that new policy does not unintentionally further hamper production of new affordable housing. These should not be "either" "or" decisions; rather new policy solutions should protect our land and our citizens, including the economically vulnerable.

Thank you for the opportunity to offer the Coalition's position on CB 38.

Respectfully,

Jackie Eng

Howard County Housing Affordability Coalition
(Coalition members listed on back)

The Howard County Housing Affordability Coalition represents over 50 organizations and individuals that seek to:

Achieve community understanding, policymaking and regulatory decisions that will lead to an increase in and equitable access to Howard County housing affordability.

Create a community-wide recognition that Howard County's economic vitality is dependent upon access to jobs, resident mobility, quality education and housing affordability.

Howard County Housing Affordability Coalition

Purpose

Achieve community understanding, policymaking and regulatory decisions that will lead to an increase in and equitable access to Howard County housing affordability.

Create a community-wide recognition that Howard County's economic vitality is dependent upon access to jobs, resident mobility, quality education and housing affordability.

Members

Roy Appletree
Association of Community Services
Harriet Bachman
David Bazell
Bessie Bordenave
Liz Bobo
Joshua Bombino
Bridges to Housing Stability
Paul Casey
Tom Coale
Deborah Coates
Consumer Credit Counseling Services
of Maryland
Columbia Downtown Housing
Corporation
Community Action Council
Gary and Jacqueline Eng
Grassroots Crisis Intervention Center
Rev. Sue Lowcock Harris
Heritage Housing Partners
Corporation
HopeWorks of Howard County
Housing to End Homelessness
Howard County Autism Society
Howard County Housing Commission
Humanim, Inc.
iHomes, Humanim
Humphrey Management
Grace Kubofcik
Jewish Federation of Howard County
Community Relations Council
JustLiving Advocacy, Inc.
Ian Kennedy

League of Women Voters of
Howard County
Jean West Lewis
Making Change LLC
Kelly McLaughlin
Phyllis Madachy
Tim May
Peter Morgan
Oxford Planning Group LLC
PATH
Paul Revelle
Bill and Laura Salganik
Jim Sanders
Sue Shafley
Jean Sedlacko
Pat Sylvester
The Arc of Howard County
TheCaseMade, Incorporated
Town Center Community Association
Unitarian Universalist Congregation
of Columbia
Pastor Larry Walker
Joe Willmott
Phyllis Zolotorow

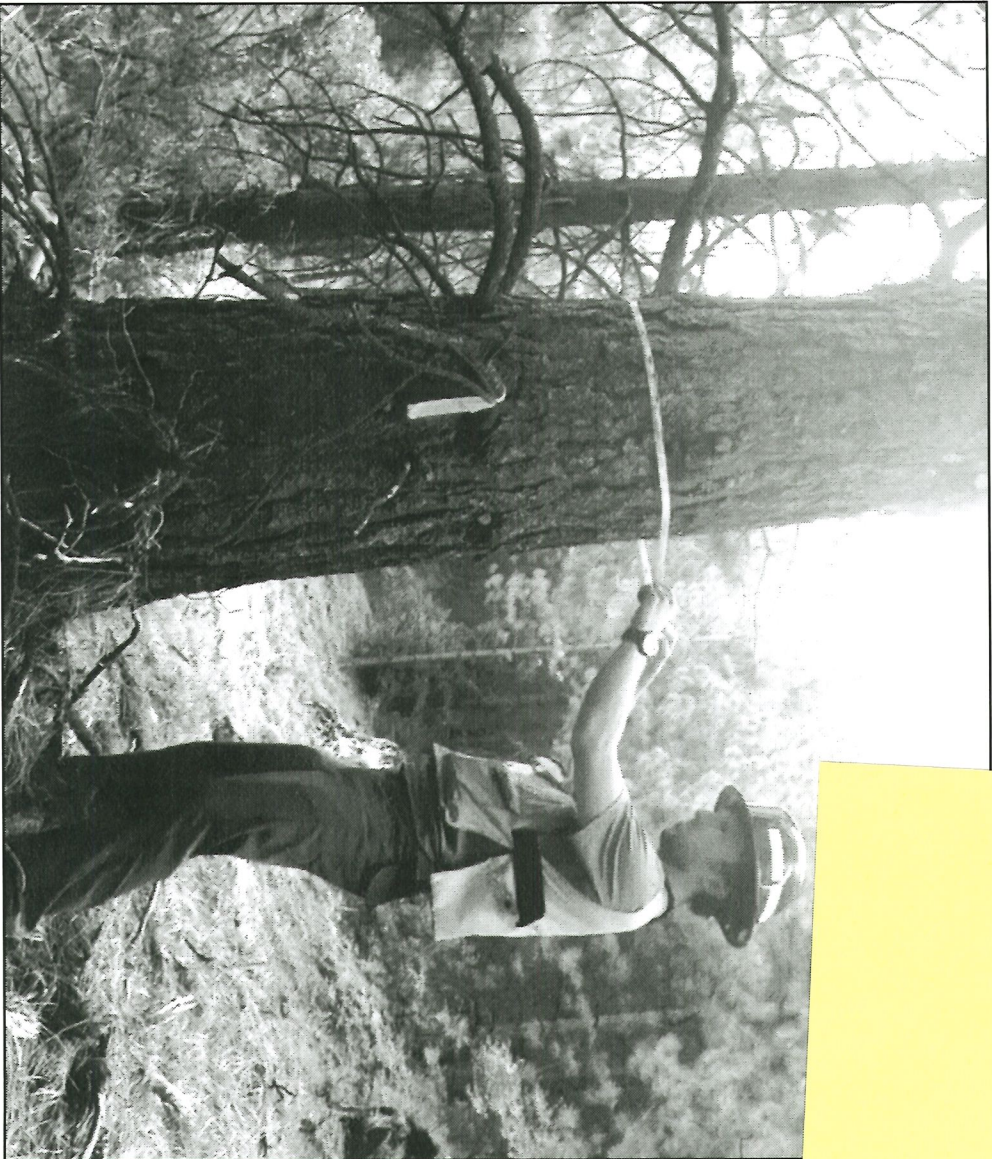
Good afternoon. My name is Vlad Patrangenaru residing on Pebble Branch Rd in Ellicott City. I'm here to urge you to pass CB-38.

You should pass this sustainability resolution because we can no longer afford to continue to do business as usual in Howard County. We can no longer afford to take our expert advice from parties that stand to benefit from the outcome. Countywide, Since the 2016 flood there have been 287 individual waivers filed to get around requirements for floodplain preservation, protection of wetlands, streams and steep slopes and forest retention priorities alone. 176 of these applications have been approved, 89 have been deferred and a whopping 3 applications rejected. In many cases projects that had waivers deferred had subsequent applications approved. All this is happening while taxpayers will likely have to foot the bill for over \$140 million of stormwater management project in the watershed. It is irresponsible to have taxpayers continue to subsidize developer profits that simply do not come close to covering the costs they are inflicting on the community. The way I see it, development in Howard County has been managed like a pyramid scheme where we keep adding housing for the supposed benefit of growing the tax base just to try to keep up with the budget gaps created from the previous round of development that did not cover its costs.

These costs, unfortunately, go well beyond budgetary gaps. Unchecked development inflicts tremendous environmental damage. Cutting down specimen trees and clearing land does way more harm than just exacerbating flooding. This is how we destroy ecosystems, increase the concentration of greenhouse gases in our atmosphere, and contribute to mass extinctions and a dramatic reduction in biodiversity. Globally, insect and bird populations are plummeting. We flinch as others burn wide swaths of the Amazon to clear land for cattle to graze, yet are we much better?

Our laws and regulations are a reflection of our values. This resolution is an attempt to pivot the way we do business in the county, to make sustainability more than a buzz word, but rather a central tenant in our decision-making process. I urge all of you to join the great majority in our communities who are united in support of this resolution, to work together to strengthen it and make it better. Please make the difficult choices needed to show Howard County can lead when it most counts.

Thank you.



Mary Cochran

I'm Neal Vanderlipp speaking as power of attorney for my mother Janet Vanderlipp of Columbia.

The Museum of Howard County History documents Old Ellicott City's sensitivity to flooding with 30 flood events back to 1772. CB38 will reduce future flooding in OEC and nearby. We heartily recommend you pass it.

CB38 is one (1) of five important steps to mitigate flood risks in the County:

- 2) The currently proposed \$140 million flood mitigation project
- 3) The runoff retention recommended in the McCormick-Taylor study¹
- 4) Much greater incentivization in flood plains for installing flood resistant doors and windows
- 5) Closer monitoring of our Compact-Environments which drain into numerous streams downhill

Dr Matthew Baker of UMBC explained at the Council's 9/20 work session that our 250 year land use history of farming and building practices has progressively degraded soils and stream conduits. Once shallow streams have become deep channels which become sluiceways to destruction downstream, worsening the Chesapeake Bay's "dead zones".

By publicly monitoring and maintaining the condition of our Compact-Environments we can end this downward spiral of development and degradation. We have a public awareness "Greenway" map², but we also need a Compact-Environment "Watchway" map. Public and private ~~vigilance~~^{Vigilance} can protect Compact-Environments of residential and business neighborhoods. Imagine the Watchway's timely information input to County planners making crucial decisions about open space, forest retention, replanting, and stormwater management.

Beyond the threat to human life, the costs of not addressing flooding include higher flood insurance premiums and reduced tax base from population and economic activity shifting elsewhere. One study³ estimated that one flood in OEC reduced County economic activity by \$67 million, plus lost labor income of \$27 million. This doesn't include cleanup or future mitigation. The regional rainfall trends tell us to adjust our development course, or expect a decades long financial deficit from declining residential and business sustainability. The question is: What percentage of this County will be livable in 50 years under current practices ?

Remember the regional news video of the swift water rescue of a graduating senior from her car off of US 29 near Columbia Mall last year ? Besides the risk to her life, the optics for a major business hub are disconcerting.

Extend the County's vision towards a 50 year horizon of economic and environmental health that factors regional rainfall trends to keep our County growing in a healthy, sustainable way. This foresight belongs in the General Plan.

Passing CB38 with strong protection for the targeted watershed will be an important first step towards a healthier county. Let's do development without degradation.

Thank you for consideration of these matters.

References:

1) "2016 Ellicott City Hydrology/Hydraulic Study and Concept Mitigation Analysis", McCormick Taylor Project No. 5519-93 June 16, 2017, prepared for Howard County Government

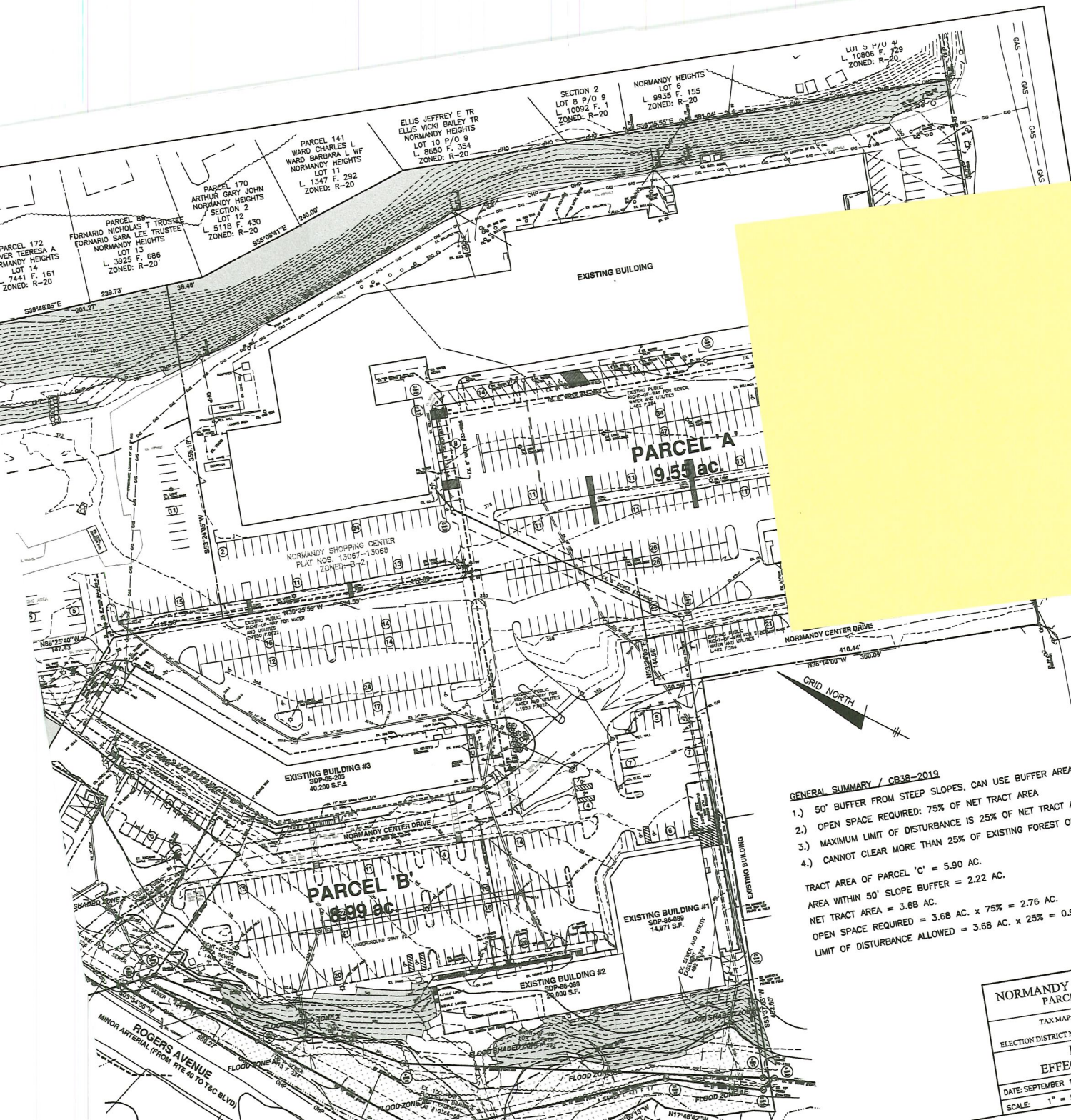
<https://www.howardcountymd.gov/LinkClick.aspx?fileticket=t3mtiyi2qIg%3d&portalid=0>

2) The Green Infrastructure Network

[https://data.howardcountymd.gov/InteractiveMap.html?Workspace=Green Infrastructure](https://data.howardcountymd.gov/InteractiveMap.html?Workspace=Green%20Infrastructure)

3) "The Economic Impact of the 2016 Ellicott City Flood", Richard Clinch DIRECTOR, THE JACOB FRANCE INSTITUTE"

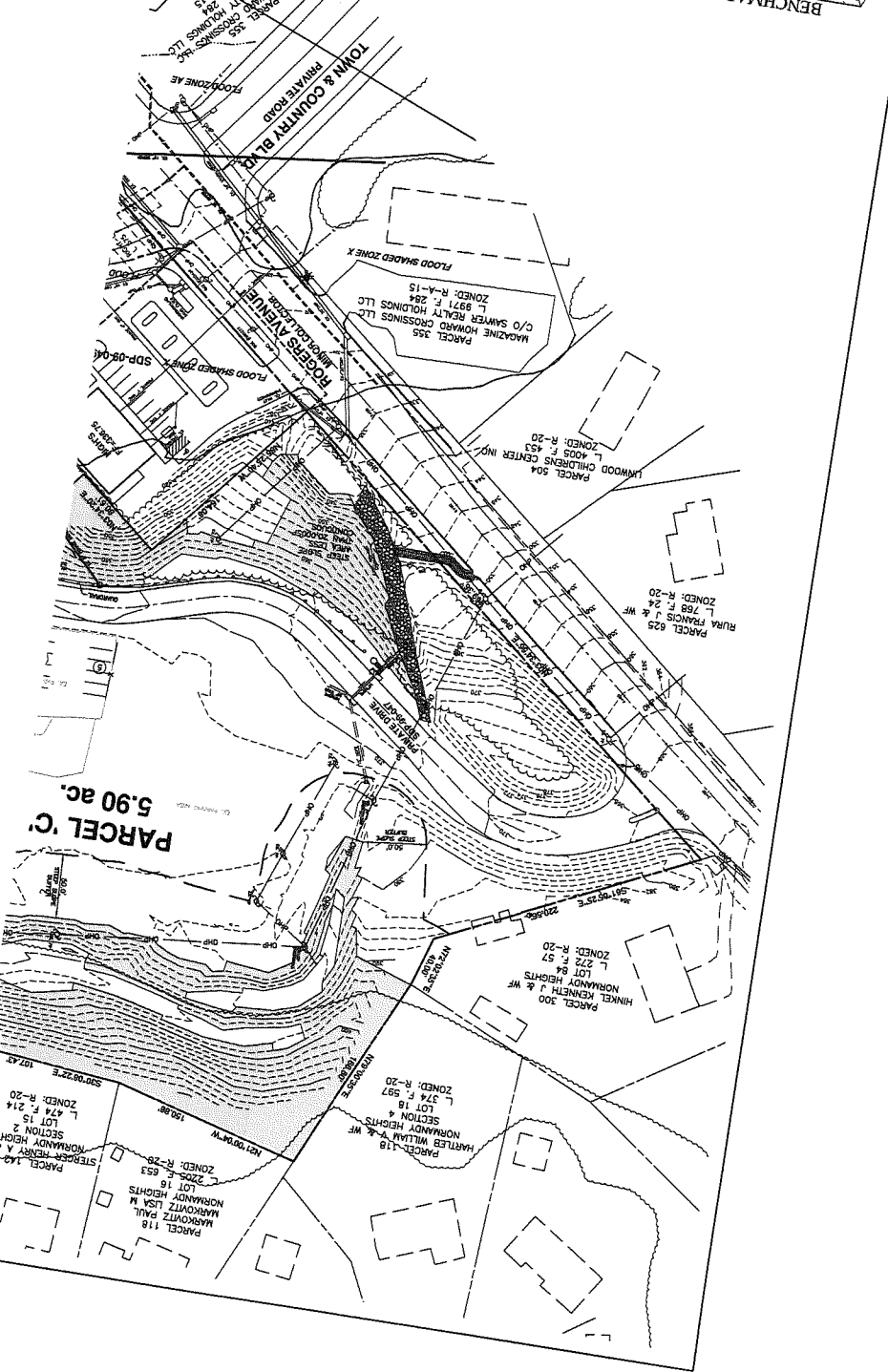
<http://www.jacob-france-institute.org/wp-content/uploads/Economic-Impact-Ellicott-City-Flood-2016.pdf>



From David Moxley

- GENERAL SUMMARY / CB38-2019**
- 1.) 50' BUFFER FROM STEEP SLOPES, CAN USE BUFFER AREA FOR SWM
 - 2.) OPEN SPACE REQUIRED: 75% OF NET TRACT AREA
 - 3.) MAXIMUM LIMIT OF DISTURBANCE IS 25% OF NET TRACT AREA
 - 4.) CANNOT CLEAR MORE THAN 25% OF EXISTING FOREST ON NET TRACT AREA
- TRACT AREA OF PARCEL 'C' = 5.90 AC.
 AREA WITHIN 50' SLOPE BUFFER = 2.22 AC.
 NET TRACT AREA = 3.68 AC.
 OPEN SPACE REQUIRED = 3.68 AC. x 75% = 2.76 AC.
 LIMIT OF DISTURBANCE ALLOWED = 3.68 AC. x 25% = 0.92 AC.

NORMANDY SHOPPING CENTER PARCELS A, B & C	
TAX MAP: 18, GRID: 19, PARCEL: 75	
ZONED: B-2	
ELECTION DISTRICT NO. 2 - HOWARD COUNTY, MARYLAND	
PARCEL 'C'	
EFFECT OF CB38-2019	
DATE: SEPTEMBER 19, 2019	BEI PROJECT NO. 1345
SCALE: 1" = 50'	SHEET 1 OF 1



September 16, 2019



Safe Skies Maryland Testimony
Position: Support
CB 38

Safe Skies Maryland supports Council Bill 38, The Patapsco Lower North Branch Bill, that seeks to protect and properly identify and manage the vitally important areas within the Chesapeake Bay watershed and those within Howard County's Green Infrastructure Network.

Howard County must act to meet the requirements of the Maryland Forest Conservation Act:

The main purpose of the Maryland Forest Conservation Act (Natural Resources Article Section 5-1601 through 5-1613) enacted in 1991 was to minimize the loss of Maryland's forest resources during land development by making the identification and protection of forests and other sensitive areas an integral part of the site planning process. Identification of priority areas prior to development makes their retention possible. Of primary interest are areas adjacent to streams or wetlands, those on steep or erodible soils or those within or adjacent to large contiguous blocks of forest or wildlife corridors.

(<https://dnr.maryland.gov/forests/Pages/programapps/newfca.aspx>)

The intent of this state law is to properly identify and retain priority areas of contiguous forest whenever possible:

The Forest Conservation Act was enacted in 1991 to stem the rate of forest loss from development in Maryland, and also to protect the most ecologically significant woods from development. The Act says "priority" forests, including forests connected to other forests "shall" be left undisturbed unless a developer "exhausts" all effort to save them. (<https://www.cbf.org/news-media/newsroom/2018/maryland/legislation-introduced-to-save-marylands-best-forests.html>)

The forested area provides critical stormwater management controls. In the previous year, "The National Weather Service documented total precipitation for the Baltimore/Washington area at 71.82 inches — nearly 6 feet of rain for the year." (https://www.myeasternshoremmd.com/kent_county_news/spotlight/md-precipitation-

[tops--year-record-leaving-farmers-struggling/article_f8dbe632-6da4-57e2-8e75-25634a4ce9f5.html](https://www.nj.gov/humanservices/dmhas/home/disaster/resources/Flood_waters_extremely_dangerous.pdf)) This amount of rainfall doubles the average which is likely to be a continuing pattern as we experience more extremes of weather. Additionally, “communities particularly at risk are those located in low-lying areas, near water, or downstream from a dam.”
(https://www.nj.gov/humanservices/dmhas/home/disaster/resources/Flood_waters_extremely_dangerous.pdf)

Notwithstanding stormwater protections, a forested area of this significance also acts as natural water filtration, air purification via the removal of carbon dioxide and other toxins, erosion control, and as critical habitat in the preservation of biodiversity at a time when each of these things is threatened. Indeed, the IPBES (Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services) chair Sir Robert Watson says, “The health of ecosystems on which we and all other species depend is deteriorating more rapidly than ever...we are eroding the very foundations of our economies, livelihoods, food security, health and quality of life worldwide.” with specific drivers noted as conversion of land use and more specifically, deforestation.
(<https://www.nationalgeographic.com/environment/2019/05/ipbes-un-biodiversity-report-warns-one-million-species-at-risk/>)

We support efforts to address the failures that tree planting elsewhere and fee-in-lieu programs were originally proposed to mitigate in terms of forest loss. In the best of circumstances, replacement trees do not replace functioning forests and say to the members of the affected communities that trees and healthy ecosystems belong to people who live somewhere other than where you do. We know now that these programs do not adequately address the loss of either forested areas or tree canopy replacing neither with even the minimum numbers and do nothing to combat the net loss of ecosystem services. The result is the further creation of unpleasant heat islands and continual remove of natural resources from local communities. Furthermore, unequal access to the health benefits of forests and adequate tree canopy continues to be an environmental justice concern throughout the county and the state.

It is our position that sustainable growth must be supported and informed by the best science available to include all stakeholders, specifically residents, and must not produce a net harm via loopholes, entitlements, and waivers. CB 38 is smartly written to provide an equitable solution to long-standing inadequacies in the pursuit of best practices for both the growth and preservation of Howard County.

Lisa Markovitz

The People's Voice, Ellicott City MD

HCCA, Columbia MD

CB 38-2019 Support

Both the Howard County Citizens Assn, and The People's Voice support this Bill and thank Council Member Walsh for her efforts to protect the environment, especially regarding deforestation.

We have heard that Dr. Ball has emphasized an ambitious reforestation goal. This goal should start with decreasing deforestation, after all, the benefits of mature trees cannot be compared to new plantings. When developers take down huge trees, often 30" trees even, and say they are planting two for every one, they are talking several inch saplings, and that is no comparison.

It seems like every regulation that is in place for good reason, gets waivers and we get all kinds of support for allowing the most rampant project possible; we need funds from development, even though it doesn't actually pay for itself; we need more affordable housing, even though it isn't required; we need better storm water management, as if development actually improves that. It is required to do so on the site, but many have seen increased flooding off, but near the site, and there are fees-in-lieu of even that, which I am sure are not going to the people who are flooded.

The waivers that come for any possible supposed hardship in developments, taking down huge trees, and clear cutting forests is not supposed to be handed out so easily, as hardship is not supposed to be financial hardship, when decreasing density or changing a plan can occur to lessen clear cutting and deforestation. We constantly make the environment fit into or get cut out of the developers' plans instead of making their plans fit into a protected area, and if that means a smaller project, then so be it.

We need to curtail the ability to provide these waivers in vulnerable areas that are prone to flooding, and disallow waivers for forest conservation, protect steep slopes, wetlands and waterways.

Recently, opposition gearing up to kill this Bill, got some press on the ridiculous notion that BG&E cannot adequately provide services if they are disallowed the ability to trim trees properly. This is ridiculous. Of course, necessary disturbances include any maintenance of existing utilities. That is no reason to vote no on this Bill.

I know there are likely concerns about restricting flexibility and not being able to accommodate a project that is constricted for some reason physically, or has an egress need, or some other difficulty. Again, we simply must shift the focus to amend plans instead of amending the environment. The opposite has gone on for far too long, and now we have recently seen that our local evidentiary requirement of proving a waiver in protected areas is warranted, is supposed to not be easier than the State law, of undue hardship. We need to be sure that DPZ is not going to allow anymore inappropriate waivers.

Any situation you can imagine that would deserve these waivers, can be suggested as an amendment, and if you cannot even describe them right now, then they would be pretty rare.

To that end, I have witnessed over the years, many projects, that request a change in the code to accommodate their projects. It happens often. It takes three years to go through the DPZ development process, so up front, a petitioner could ask you to amend this code in the future if an amendable exception presents itself and it could be done within months quite easily, far shorter than the map amendment process, and about the same as a regulation change request, which are pretty standard. Thus, that also is no reason to vote against this Bill, because some project somewhere somehow should not be limited.

For now, we need to shift the modus operandi, while we still have any forest left. Thank you.

September 16, 2019

Howard County Council Members:

RE: Testimony CB-38

We support CB-38: The Patapsco Lower North Branch Bill, which aims to protect the remaining trees, forests, waterways, neighborhoods and historic towns in this associated watershed. This bill contains many common sense steps that will help to preserve the green infrastructure that naturally reduce future flood volume in this fragile watershed.

There are key features in this bill that will improve the process of protection beyond measures currently in place. This bill would close loopholes that currently still allow for development beyond what is sensible in these sensitive areas.

We support efforts to hold new development to higher standards in this watershed, by requiring control to the magnitude of 2016 peak flood conditions, increasing buffers near waterways, wetlands, and steep slopes, and additionally by eliminating waivers or alternative compliances (unless necessary for flood control).

Importantly, this bill eliminates the option of the fee in lieu of compliance with open space and forest conservation requirements within the watershed. This step is critical, because the only chance of mitigating floodwaters is within the watershed. Regardless of how those fees are used, there remains little reason today to continue to allow developers the option for paying a fee instead of complying with current regulations. These regulations were meant as protections that have been intentionally written into our policies. We are only harming ourselves by allowing these protections to be bypassed or ignored by any method. Similarly, when waivers are granted, we are harming ourselves in the long run by not abiding by the careful procedures that have been intentionally written into state and county policy.

Another way this bill aims to improve decision making in sensitive areas is to require that key features of the green infrastructure be drawn onto the site development plans. This way the Department of Planning and Zoning (DPZ) can clearly see all of the specimen trees and their root structure zone, the Howard County mapped green infrastructure network and its connections, and the State of Maryland designated targeted ecological areas which need maximum protection to save endangered and threatened species. Moreover, this bill would require these features are also shown on adjoining properties as well, since site development can also effect the natural areas nearby. This important step will allow for the DPZ to accurately see these key site features on the plan and make it possible for them to use this information in making important development decisions.

We are also in favor of the increased transparency described in the bill for making a monthly report available on the DPZ website which includes any applications for necessary disturbance. The website information would also include the results of these applications along with any required mitigation that the developer must perform.

We strongly urge you to pass this legislation. The time for bold leadership is now. After losing lives and livelihoods two times over, the need for us to act today could not be more clear.

Please pass CB38.



Carolyn Parsa
Howard County Sierra Club Chair



Additional partner sign on:



September 23, 2019

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

Dear Howard County Council Members:

I have included below my written testimony regarding CB 38-2019. Thank you for your time in considering my testimony.

I am currently the managing member of Burkard Homes LLC. We have been building new homes in Howard County for 10 years. Prior to that, I was the division president of a national homebuilder with division offices in Howard County for 8 years.

I am writing in opposition of bill CB 38. While it may be good intentioned in protecting historic Ellicott City, it simply does not accomplish the goal of reducing future flooding. Others have already testified as to why it does not accomplish the goal so I will not repeat their testimony other than to say that new development under current storm water management regulations keeps nearly all storm water on site.

I am writing rather to address the intended and unintended consequences for the county. The intended consequence clearly is that of a de-facto moratorium on development in the Patapsco Branch Watershed. This is in addition to the actual moratorium that is currently in place on the Tiber Branch and Plumtree Watersheds.

I believe the pending legislation of CR-123 much more effectively and responsibly addresses this issue without the damaging impacts that CB 38 may have on the county – well beyond the development community.

These negative consequences include housing affordability, taking of property rights, and fiscal impacts to the county.

First, it all but eliminates residential development in the Patapsco corridor. This eastern part of the county provides the most housing affordability in Howard County. Builders, big and small, have continued to leave the marketplace due to affordability issues and scarcity of land. Our customers continue to tell us how few homes are on the market.

The resulting reduction in supply of new homesites, just three months after implementation of APFO 2018, would have a significant impact on the supply of homesites for years to come. That, of course, would increase prices of new homes, land, as well as existing homes. This only makes the housing affordability crisis in our area even worse.

Page 2

September 23, 2019

Second, the landowners who own property in the corridor would effectively have their land devalued by this legislation. It is effectively a taking of their property. The typical land seller that I deal with lives in a modest older home sitting on a few acres of land. For many of these land sellers, the land that their homes sits upon is the largest, and sometimes, only asset of significance. It is not fair to these citizens for the council to devalue these assets of these landowners.

Finally, development is a large source of revenue for the county. The substantial fees, real estate taxes, and income taxes for any development in this corridor would not be realized putting further pressure to cut services or obtain revenue from other sources.

So, while good intentioned, I strongly believe this is simply a bad bill. It does not accomplish its objectives but does have significant other negative consequences for the county. These negative consequences include less housing affordability, taking property rights from landowners, and fewer financial resources for the county.

Sincerely,



Tim Burkard

Dale Schumacher, 6581 Belmont Woods Road Elkridge. 49 year resident Howard County.

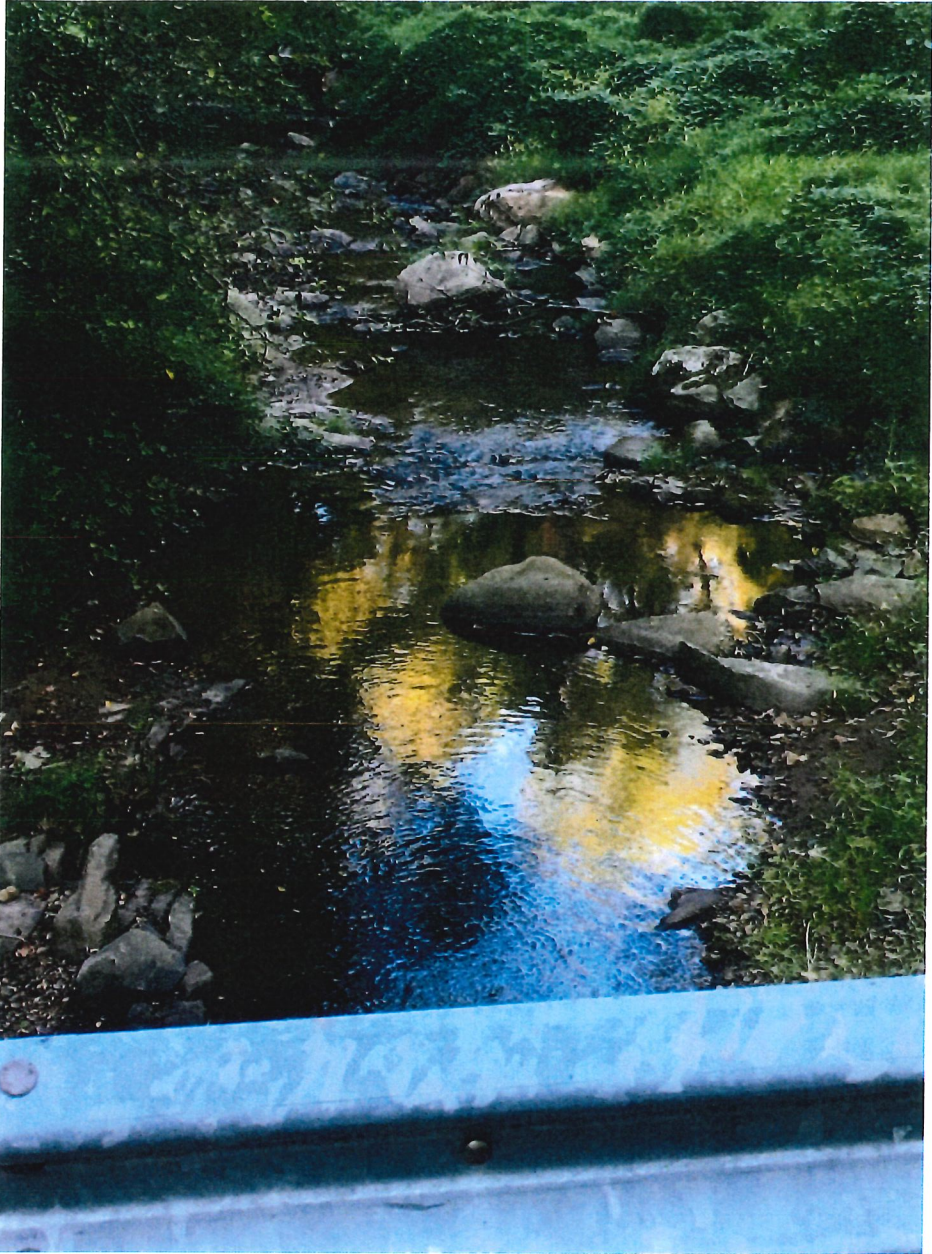
I strongly support CB-38-19, the Patapsco Lower North Branch Bill. The Council should consider expanding its coverage to other County watersheds.

Our family property is being irreparably damaged by stormwater runoff.

Picture 1 - Maryland Environmental Trust Easement - The bridge over the Rockburn Branch. The Rockburn Branch courses thru our property. To reach Belmont, you traverse our property.



Picture 2 - This is the Rockburn Branch from the Belmont Woods Road bridge looking down stream (9-15-19).



Picture 3 - This is the same view of the Rockburn Branch during a stormwater runoff surge. (9-7-11). Later tonight I will send you the video file.



Picture 4 - Grandson at erosion cliff. As you can see, as the cliffs are created, the vegetation and trees are undercut and eventually fall into the stream. Stormwater run off adversely impacts Section 16.1205 Forest Retention Priorities.

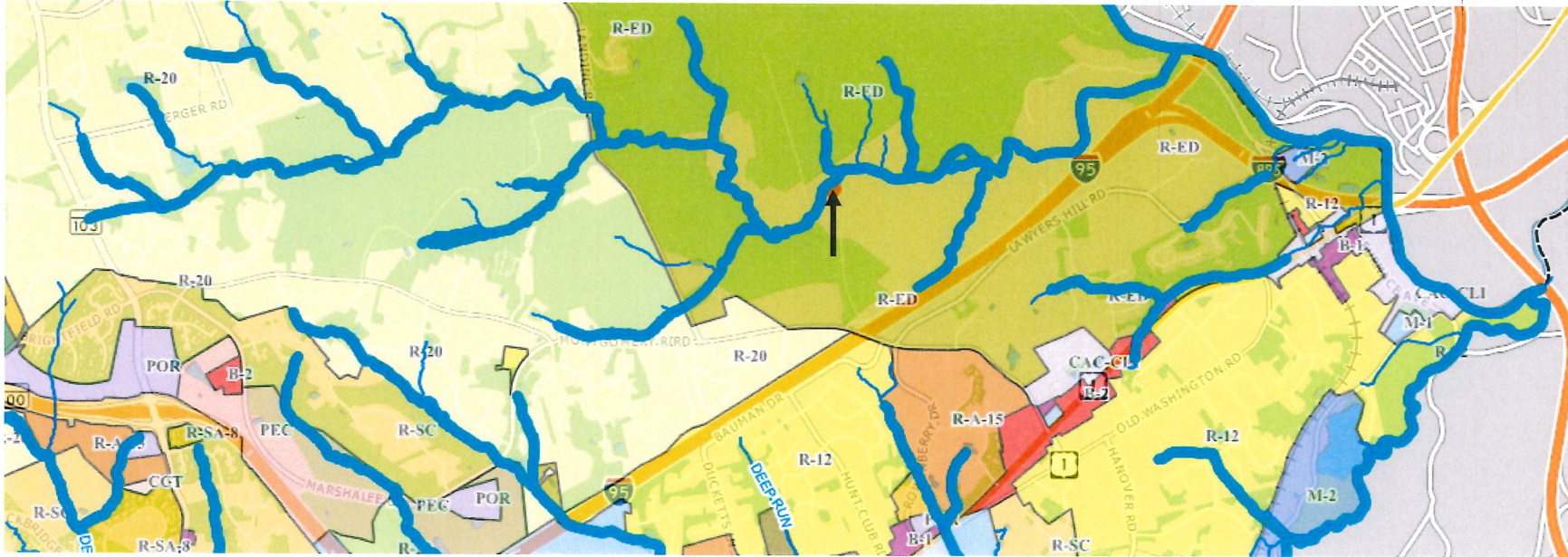
(5-28-12)



Picture 5 - 3-23-12 Erosion Cliffs. During 2011 - 2012 we used rip rap and vegetation to stabilize the cliffs. Neither was effective. Stormwater runoff is damaging Howard County's Preservation Easements. Does Howard County's existing stormwater management laws put us in violation of County and State Forest Retention priorities?



MAP 1 - The headwaters of the Rockburn Branch originate at Route 100. Arrow identifies bridge.



Recommendations - the specific text additions are shown in bold:

- Please expedite approval CB-38-2019 - See the Tale of the Table - Ellicott City (below - Page 7)
- 16.104 Waivers - (d)(3) Is necessary for construction **and maintenance**
- 16.116 Protection of wetlands, streams and steep slopes - (d) (6) (viii) **Compile the results by applicant and report by Council districts aggregating monthly disturbances and mitigations.** This addition to facilitates tracking and trending and comparisons among Council Districts especially those Districts not under CB-38-2019.
- An addition to CB-38-2019 Subtitle 12 - 16.1205 Forest Retention Priorities (a)(8) Trees and other forest resources associated with an historic site **and County, State or Federal historic district;** This addition would parallel 16.118 Protection of Historic Resources. The administration has been confused regarding the definition of an historic site.

Thank you for the opportunity to testify on this vital legislation. Please move this legislation forward. Please do not table. See my brief history of CB-65-2016.

The tale of the Table and Ellicott City - 2016, CB-65-2016

Only weeks after the devastating 2016 Ellicott City flood, Howard County Council Member Weinstein from Ellicott City and Elkridge introduced Council Bill No. 65-2016, "An act temporarily prohibiting issuance of certain permits for certain development within the Tiber-Hudson (Ellicott City) Watershed."

The Howard County Council then heard testimony. Supporting Bill 65 were five organizations: The Chesapeake Bay Foundation, The Peoples Voice, Patapsco Heritage Greenway, the Howard County Citizens Association, and the Howard County Sierra Club. Twelve individual citizens supported the legislation, and two had concerns, but none opposed.

Only the Maryland Building Industry Association opposed the legislation. The September 12, 2016 Howard County Times reported that the Kittleman administration said it is too early to determine the relationship between development and flooding.

With overwhelming citizen and organizational support there was hope that Bill 65 would move forward. But on October 5, 2016 Council Member Sigaty moved, with a second from Council Member Fox, to table Bill 65. Bill 65 was brought back to life once, but only to be retabled where it expired on December 10, 2016.

On May 27, 2018, Ellicott City was devastated by a second thousand-year flood.



County Council Public Hearing - September 16, 2019

Council Bill 38-2019 Testimony

Thank you for the opportunity to submit testimony regarding Council Bill 38-2019. While we strongly support legislation that will address flooding and climate change, the Howard County Housing Commission is opposed to this measure because it would eliminate one, and possibly two developments that will provide approximately 123 apartment homes for low and moderate-income households. The bill would also reduce the amount of land that is available for new housing that would benefit low and moderate-income earners.

There continues to be an urgent need for housing that is affordable to individuals and families earning incomes at the lower end of the spectrum. Our 2018 Rental Housing Survey showed that there is a shortage of more than 5,000 units for families earning \$50,000 annually or less who already live in Howard County. These households struggle to pay a rent they cannot afford, or worse yet, are not housed at all. There are clear links between housing insecurity and health. There is also a strong link between secure housing in good neighborhoods and school performance. When we fail to create housing for County residents that they can afford, we are contributing to emergency room visits, poorer school test scores, crowded roads, and other on-going County concerns. We all pay for these hospital costs, traffic, and school issues. We all share concerns when employers are concerned about locating the Howard County because their staff cannot afford to live here.

Much of the land in Howard County is already off limits to rental housing – the primary housing source for lower income individuals and families. Of the land in the County that is zoned residential, only 23% of it can be developed with apartments. Due to the APFO ordinance, much of that land is now closed to new development. Council Bill 38-2019 would further restrict development opportunities, eliminating several very viable multifamily zones. The bill would result in less new housing affordable to low and moderate-income earners. And because it limits the allowable areas of development, it would lead to a greater concentration of Howard County's affordable housing. Concentrations of affordable housing are something that the County has long sought to avoid.

One of the two sites that could be halted by the legislation is the redevelopment of an existing commercial facility. The project will actually improve the storm water management on the site. The bill's results would seem to be counter to its intentions in this case.

Collectively, the two affordable developments are expected to raise about \$43 million of non-County funds to help County residents. About \$30 million of that is highly competitive State funding that will go

elsewhere if it cannot be used for the two projects. These are very scarce resources that we cannot afford to lose. Resources are tight in Howard County and throughout the State. We should not reject funds that can solve some of the most pressing problems of our own residents.

The Commission strongly supports the County's efforts to combat flooding and the effects of climate change. We believe, however, that there are methods to do so that take into account the County's many needs, including the needs of County residents for housing that they can afford.

We all benefit from the creation and the deconcentration of equitable housing opportunities. We can find the solution that solves both the flooding and the housing crises that face us. Thank you.

September 23, 2019

Good afternoon. My name is Barry Gibson and I own 2 historic properties at 8044 and 8048 Main Street Ellicott City. My wife and I operate a giftware / collectible business at these locations.

For the past 475 days my wife and I, a small group of volunteers, and a restorative contractor have been rehabilitating our property since the flash flood of 2018. We devoted much time and money to flood proof both of these properties, from a higher retaining wall above and behind the building to french drains on various floors within, to period styled flood resistant doors and windows streetside that were imported from England.

My wife and I believe very strongly that bold measures are required to preserve and maintain the integrity of historic Ellicott City. Passage of CB 38 for the Patapsco North branch will prevent increased disturbance due to development from flood waters in this watershed. The bill protects and enhances open space and eliminates open space transfer. All new and existing stormwater management projects must conform to the 2016 volume levels. The bill eliminates fee-in-lieu and waivers for stormwater management and requires SWM for less than 5000sq ft of land disturbance. The proposed legislation also requires afforestation of at least 50% of the land. In addition the bill eliminates infill development and variances.

This bill is a very responsible piece of legislation and a powerful vehicle that is sorely needed to help reduce and slowdown the amount of runoff that EC experiences. EC has experienced tremendous runoff caused by excessive amounts of rain combined with runoff increasing land developments throughout the Patapsco North branch watershed. I personally witnessed both of the dangerous floods in 2016 and 2018 and feel very strongly that despite the lives lost, we were very fortunate that so many lives were spared and we did not lose the entire town. The intensity of this incredible volume of water was devastating. I recommend that this bill be passed on merits of a safe and sound policy. Many thanks to Liz Walsh for doing a thorough job highlighting some past due and sorely needed solutions addressed in CB38. I highly endorse CB 38 and CB 40 and also Council Resolutions 120, 122, and 123. Thank you

Barry D. Gibson

Testimony on Council Bill 38-2019 submitted by
Charles Kyler
3570 Sylvan Lane
Ellicott City MD, 21043

I am in full support of this bill. Restricting and or removing some waivers and fees-in-lieu is an important step in fixing the hazardous stormwater situation we find our selves in.

We did not arrive here overnight, it took decades to dig this hole. In part by continually allowing the edges of wetlands and streams to be nibbled away bit by bit. As more and more development has occurred, adequate stormwater facilities were not put in place. Admittedly, no one 30 years ago could have anticipated exactly how much climate change was going to effect local weather patterns and the devastation it would cause.

As a property owner I have property rights, as do all who purchase property, this point has be made by those wishing to develop within the watershed. The question I have is, why do the rights of those wishing to develop a property and desire for a higher rate of return trump those of all the other property owners?

Why is our right that our property will not be adversely effected by another's development overruled?

Why do we have a system that consistently allows well defined restrictions to be side stepped?

Why do we have what looks like a Pay-to-play system where it's easier for a developer to get a wetland variance than a resident to build a shed?

Until the engineering solution to our flooding is finished, designed and built, building restrictions within the watershed should be severely limited so as to not add to the current design challenges. Once that work is completed, new development within the watershed should be held to new standards so as to not adversely effect the watershed.

Development has always been a speculative business. Allowing development in an area know to be prone to flooding and risk to life is like giving a the keys to a car to a drunk and claiming it's ok because there are other drunks on the road.

I would like to ask the developers who are interested in developing in the watershed if they would be willing to help build/pay for remedial mitigation/retention projects in older developed areas? This would help expedite the timeline to fix the problem, and demonstrate that they truly are interested in building a safe future for residents of the watershed.

Thank you for your time.

Charles Kyler