

CB61

## Sayers, Margery

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**From:** Stephanie Tuite <Stephanie@fcc-eng.com>  
**Sent:** Monday, November 18, 2019 8:02 AM  
**To:** CouncilMail  
**Subject:** Testimony for Nov 18, 2019 hearing (CB61, CB62, CB63)  
**Attachments:** Stephanie Tuite.vcf; STuite Testimony for Nov 18 2019.pdf

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

Council,

Please see the attached letter/testimony with regard to proposed legislation being heard on the above date. I will try to be at the hearing to present this testimony, but please accept this written version. Thank you.

Steph



Dear Howard County Council,

CB62

I have worked with the forest conservation regulation as well as the Zoning Code and Subdivision and Land Development regulations over the past 25 years. I became a DNR qualified professional after receiving training from DNR in 1995. I am a Registered Landscape Architect (2000) and Professional Engineer (2010) as well. I have had occasions to work on school projects, commercial developments, as well as residential developments. Although there are main times that we create easements that are more than 35 feet wide, there are always aspects of the plan that we need to go down to the 35 foot minimum.

“Trees that are part of a historic site or associated with a historic site” (pg 12) leaves a lot of room for interpretation and could be left up to interpretation differently, needs more clear language. Also on page 12(B)(5) references “Critical Habitat areas and Forest Corridors with a minimum width of 300 feet” which is based on what? Who determines whether this area is critical? Many references I have heard are based on large scale mapping. A decent planning tool, but when you get to a county level look at things, the large scale planning tool isn't very reliable since it needs to be at a more site specific detailed level.

Making the ratio higher for reforestation outside the watershed does not make it easier to find off-site locations (forest banks). Our clients look for what is available. If a site is not available in the watershed, then the site is being further penalized.

In order for subdivisions to “reduce lot sizes, cluster lots and maximize open space” (pg 17), the subdivision regulations need to support it, like what is referenced for R-20. Without supporting language in other sections of the subdivision regulations, it would be unreasonable to expect this new section to be able to be utilized. Also, on this same page, if RC and RR lots are importing density, it is due to the fact that soils have been found suitable for septic. Properties that are sending density are doing so most times because soils are not suitable for septic. Based on this, the subdivision is “reducing lot sizes, clustering lots and maximizing open space” since it would be clustering per zoning regulations. Areas suitable for development are utilizing the density for those that cannot.

Although I understand the 35-foot setback for on-site (pg 18), I do not understand off-site. If another subdivision creates a forest conservation easement on their property, that should not limit what is done on someone else's property. That would force a site to have a 35 foot side setback where they might normally have a 10 foot setback.

References on page 22 state that variances for projects that don't go to planning board require approval from “Director of Dept of Planning and Zoning, the Administrator of office of Community Sustainability, and the Director of Recreation and Parks” and per what was stated in the pre-file meeting, this requires a unanimous approval. It isn't majority rules. This need to be clarified since it was my understanding that this was not the intent, that it was to be a coordinated effort.

Please note that there are references to “waivers” on sheet 23 and references to “Forest Conservation Bank” which terminology needs to be consistent with the regulations. The references should be “Alternative Compliances” and “Forest Bank” or “Forest Mitigation Bank”. Also, not real clear how we “verify” the conditions with (D)(5 and 6) on this page. It would be hard to prove either side of the argument.

CB61

Economic hardship needs to still be a part of the consideration. Whether it be with demonstration that other factors must exist, and not just economic hardship would be a consideration. (pg 1)

Slopes less than 20,000 sq.ft. should still be allowed to be graded. There should not be a distinction between manmade and natural. What limitation would you put on what is considered natural vs. manmade? Recent grading? Within last 5, 10, 15 yrs?

(D)(1) (pg 6) states that "For private development projects, Director of Dept of Planning and Zoning, the Administrator of office of Community Sustainability, and the Director of Recreation and Parks" and per what was stated in the pre-file meeting, this "requires a unanimous approval. It isn't majority rules." This need to be clarified since it was my understanding that this was not the intent, that it was to be a coordinated effort.

CB63

During a prior iteration of this bill and I assume the same or similar reasoning is being offered for the widening of the buffer along a roadway. Creating a "corridor for habitat" along a roadway to buffer subdivision only offers more opportunity for collision between wildlife and vehicles on the roadway. Visual character which is the purpose of the scenic roads legislation can be achieved with the current buffer. The first part of the legislation states "helps to preserve the scenic character of the landscape viewed from these roads", not to create a habitat.

(4)(l)(B) states the "Only to the extent vehicular access cannot be practicably located along a non-scenic road, access along a scenic road shall be permitted at an existing driveway location." This should not be the only situation to be acceptable. Some situations exist where relocating the existing driveway entrance creates a safer entrance with better visibility. Also, it is occasionally necessary to clear trees along the road to have a safer entrance in order to provide visibility and meet Sight Distance requirements to create a safe entrance which is evaluated by the county's review by Development Engineering Division, who are trained to review these types of requirements.

With regard to the amendment to administrative waivers to add what essentially is the requirements of a pre-submission community meeting notification for a Planning Board meeting, which is a bit excessive when the Planning Board notice is put in two newspapers and a sign is posted on the property as part of the Planning Board meeting. Also, the 30 days for public comment isn't clear when the Planning Board meeting is the forum for public comment. This also seems a bit excessive.

Thanks for your time and consideration of my testimony.



Stephanie Tuite, RLA, PE, LEED AP BD&C  
DNR Qualified Professional

## Sayers, Margery

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**From:** Edward Packard <ed.packard@gmail.com>  
**Sent:** Sunday, November 17, 2019 11:08 AM  
**To:** CouncilMail  
**Subject:** I Support CB61-2019 and CB62-2019

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

Howard County Council

MD  
US

RE: I Support CB61-2019 and CB62-2019

Dear Howard County Council,

I support CB61-2019 and CB62-2019 to address many of the problems with waivers and variances around environmental protections (and the requirement for sidewalks!) and improve protections for our remaining forests in Howard County.

[Why Do You Like Trees?

- Water Benefits including water quality by filtering out pollutants, water quantity by absorbing and slowing stormwater runoff
- Habitat for animals and birds
- Visual enjoyment
- Recreation
- Air Quality by filtering air
- Climate by sequestering carbon]

Thank you!

Sincerely,  
Mr. Edward Packard  
3161 Elmmede Rd  
Ellicott City, MD 21042  
(410) 750-1994

## Sayers, Margery

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**From:** Cathy Hurley <redcat72@gmail.com>  
**Sent:** Saturday, November 16, 2019 8:21 PM  
**To:** CouncilMail  
**Subject:** Support for CB61-2019, CB62-2019, and CR142-2019

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

Hello,

I wanted to send in my vote of support for legislation, CB61-2019, CB62-2019, and CR142-2019 which are being presented Nov 18th. It is important to our county that this legislation passes!

Thank you,  
Cathy Hurley  
North Laurel

## Sayers, Margery

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**From:** Eric Miller <indyx86@alumni.american.edu>  
**Sent:** Thursday, November 14, 2019 6:06 PM  
**To:** CouncilMail  
**Subject:** I Support CB61-2019 and CB62-2019

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

Howard County Council

MD  
US

RE: I Support CB61-2019 and CB62-2019

Dear Howard County Council,

I support CB61-2019 and CB62-2019 to address many of the problems with waivers and variances around environmental protections (and the requirement for sidewalks!) and improve protections for our remaining forests in Howard County.

Canopy cover requirements and protection are a big part of why I choose to move to the Columbia Area a few years ago. I am concerned about the amount of on-going development posing a threat to our natural spaces.

Thank you!

Sincerely,  
Mr. Eric Miller  
4906 Columbia Rd  
Unit 1  
Columbia, MD 21044  
(740) 591-1507

## Sayers, Margery

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**From:** Cheryl Arney <cherylarney@gmail.com>  
**Sent:** Thursday, November 14, 2019 5:29 PM  
**To:** CouncilMail  
**Subject:** I Support CB61-2019 and CB62-2019

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

Howard County Council

MD  
US

RE: I Support CB61-2019 and CB62-2019

Dear Howard County Council,

I support CB61-2019 and CB62-2019 to address many of the problems with waivers and variances around environmental protections (and the requirement for sidewalks!) and improve protections for our remaining forests in Howard County.

My lot in the Dorsey Hall neighborhood of Columbia had a woods on it when we bought it in 1980. Thankfully the developer did not cut it down. Over the last 39 years it has grown and new trees have emerged from seeds dropped from the old trees. Wildflowers grow in our own small forest. I wake up in the morning watching squirrels and birds of all kinds carry on life in "my" woods. My husband puts the leaves that fall from the trees back on the woodland floor to nourish the woods. For me, improving quality of life is reason enough to conserve forests.

But of course there are so many other reasons. Woodland absorbs water from rain better than grass does, which helps keep run-off from entering the storm drain at the curb bordering our property. Trees improve air quality by filtering the air. Trees absorb carbon dioxide which is our first line of defense against climate change. The acorns and hickory nuts and black walnuts provide food for our squirrels and birds and deer and other wildlife. Branches that fall decay and are returned to the soil. What a miracle a forest is.

We have stayed in our house in Dorsey Hall not so much because it's a great house but because that woods that is our front yard is simply irreplaceable. It's largely what keeps us here. It's what ties us to this very special place.

I hope the Council will do all it can to incentivize developers to remove as few trees as possible. A natural woodland is a very special place and not easily duplicated.

Thank you!

Sincerely,  
Mrs. Cheryl Arney  
4361 Wild Filly Ct  
Ellicott City, MD 21042  
(410) 480-9609

## Sayers, Margery

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**From:** Wanda Prather <wprather42@gmail.com>  
**Sent:** Thursday, November 14, 2019 4:02 PM  
**To:** CouncilMail  
**Subject:** I Support CB61-2019 and CB62-2019

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

Howard County Council

MD  
US

RE: I Support CB61-2019 and CB62-2019

Dear Howard County Council,

I support CB61-2019 and CB62-2019 to address many of the problems with waivers and variances around environmental protections and improve protections for our remaining forests in Howard County.

We need to preserve tree cover in HoCo. Trees improve air and water quality by slowing stormwater runoff and address climate change by sequestering carbon.

We have personally seen the devastating and expensive impacts of climate change in the water problems on our property. For the first 20 years we lived here, we had no water issues. In the past 5 years, we have spent \$50,000 to deal with erosion caused by the extreme storms that have become common - and this is a TINY amount compared to the devastation wreaked on Ellicott city.

It will be MUCH CHEAPER to slow down climate change than to deal with the devastating impacts we can expect if we don't ACT NOW.

Thank you!  
Wanda Prather

Sincerely,  
Ms. Wanda Prather  
6320 VELVET PATH  
Columbia, MD 21044  
(410) 868-4872



## Sayers, Margery

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**From:** Jung, Deb  
**Sent:** Thursday, November 14, 2019 11:59 AM  
**To:** Sayers, Margery  
**Subject:** FW: CB 61- 2019 and CB 62-2019  
**Attachments:** CB 62 AnalysisV9LEMNRV.docx; CB 61 AnalysisV7LEMNRV.docx

Deb Jung  
Councilmember, District 4  
Howard County Council  
3430 Court House Dr., Ellicott City, MD 21043  
410-313-2001

Sign-up for my District Update [here](#).

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**From:** LEILA MAHLIN <samlnbm@comcast.net>  
**Sent:** Wednesday, November 13, 2019 9:33 PM  
**To:** Jung, Deb <djung@howardcountymd.gov>  
**Cc:** Neal Vanderlipp <nrv@xcal-sol.com>  
**Subject:** CB 61- 2019 and CB 62-2019

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

Dear Council Member Jung,

We are pleased with Howard County's attempts to move toward being in compliance with State Forest Conservation and enhanced support of the local environment.

Please see the attached. We spent time carefully reviewing both bills (CB 61-2019 and CB 62-2019). We found some changes that we think should be made to enhance both bills.

If you have any questions please contact us,

Respectfully,

Leila Mahlin

[samlnbm@comcast.net](mailto:samlnbm@comcast.net)

and Neal Vanderlipp

[nrv@xcal-sol.com](mailto:nrv@xcal-sol.com)

**Sayers, Margery**

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**From:** Jung, Deb  
**Sent:** Thursday, November 14, 2019 11:59 AM  
**To:** Sayers, Margery  
**Subject:** FW: CB 61- 2019 and CB 62-2019  
**Attachments:** CB 62 AnalysisV9LEMNRV.docx; CB 61 AnalysisV7LEMNRV.docx

**Deb Jung**  
**Councilmember, District 4**  
**Howard County Council**  
**3430 Court House Dr., Ellicott City, MD 21043**  
**410-313-2001**

Sign-up for my District Update [here](#).

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**Sent:** Wednesday, November 13, 2019 9:33 PM  
**To:** Jung, Deb <djung@howardcountymd.gov>  
**Cc:** Neal Vanderlipp <nrv@xcal-sol.com>  
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Dear Council Member Jung,

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Please see the attached. We spent time carefully reviewing both bills (CB 61-2019 and CB 62-2019). We found some changes that we think should be made to enhance both bills.

If you have any questions please contact us,

Respectfully,

Leila Mahlin                                      and      Neal Vanderlipp  
[samlnbm@comcast.net](mailto:samlnbm@comcast.net)                                      [nrv@xcal-sol.com](mailto:nrv@xcal-sol.com)

**Proposed CB 61 Analysis,  
Impact and Compliance Issues to Address  
Comparison of State Current Howard County Code and proposed CB 61**

**Summary**

The stated purpose of CB 61 as reflected in the Oct. 17<sup>th</sup> public unveiling at Savage Park, was to update Howard County's Forest Conservation Act to bring it into "full compliance with State law".<sup>1,5</sup> The bill, as currently listed, appears to achieve that objective to a greater extent than the current waiver procedures. The major change appears to be additional departments involved in the process.

Below are two sections:

The first summarizes components of the bill to clarify and address,

The second notes the rationale and benefits of the changes proposed in CB 61-2019.

**Components of the Bill to Clarify and Address:**

1. P 6, L 13-17 In 16.116 D 1, the requirement of Administrators of DPZ, Office of Public Works and Administrator of Office of Community Sustainability to review should be clarified. *It* is ambiguous as to whether each of the three can grant waivers or if the waiver decision needs to be unanimous .
2. P 7, L 1-4 In 16.116 D 2, the allowance of these three departments to request alternative analysis appears to assist in more oversight. What is the management organization for this ? It is ambiguous as to whether each of the three can request analysis or if the request is arrived at unanimously.
3. P 2, L 1-2 The inclusion of the fourth criteria (16.104.a. IV) THE MODIFICATION IS NOT DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY OR WELFARE OR INJURIOUS TO OTHER PROPERTIES appears to strengthen the rights of communities. The problem is that it often falls on the community to note this. However, in implementation, it remains very difficult for a community, in a timely manner, to point out, fund, implement and convey studies to the government that note, for example, flooding issues in their communities. One estimate for a study of this type for a 5 acre property was over 50 thousand dollars. Retaining a "Watch Way" where citizens can note those issues and have them followed up on by the county would help to ensure that this information is conveyed properly. It is understood that this is an ongoing challenging issue to address,

but in light of recent local flooding and national health concerns like Flint, Michigan our county will want to ensure that these issues can be adequately noted and addressed.

#### **COMMENT ON VULNERABILITY-**

When land development is such that Forest Conservation protocols are not required and or regulated, there are environmental and economic impacts for numerous areas of the county. Please refer to analysis of CB-62- 2019 as found in CB 62-2019 Analysis Repeal and Reenacting the Forest Conservation Act of Howard County November 13, 2019<sup>2</sup>

This points out the burden that lower wealth index zip codes in Howard County face when presented with additional flooding or other environmental impact due to reduced vegetation. In addition it points out the impact on the environmental infrastructure.

#### **Rationale and benefits of the changes proposed in CB 61-2019.**<sup>3</sup>

1. *The use of the word "or" for a waiver for "UNREASONABLE HARDSHIP, OTHER THAN ECONOMIC, OR PRACTICAL DIFFICULTIES" allows one to request and prove only for the easier standard, which is practical difficulty (16.104.a). The "practical difficulties" wording and standard is only acceptable for requirements other than forest conservation, and as now written this only applies to subtitle 1 Subdivision and Land Development Regulations and not subtitle 12. Forest Conservation* This has been the major issue with the wording prior to CB 61-2019 and CB 62-2019 and is standing regarding variances since Dec 31, 1992 in Howard County.

#### **Background:**<sup>4</sup>

Study of Alternative Compliance and Waivers for Forest Conservation or Retention, Howard County Maryland- Sample year 2015, Review of Online Decision Letters, October 7, 2019, by Leila Mahlin and Neal Vanderlipp

<sup>1</sup> NOTE: In COMAR (updated Nov 6, 2019) Title 08. Department of Natural Resources, Subtitle 19 Forest Conservation, Chapter 08.19.01 General (b) it states "Variance" does not mean a zoning variance " and it states "Variance" means relief from Natural Resources Article, §§5-1601-5-1612, Annotated Code of Maryland, or this subtitle.

<sup>2</sup> CB 62-2019 Analysis Repeal and Reenacting the Forest Conservation Act of Howard County, November 13, 2019, Leila Mahlin and Neal Vanderlipp


<sup>3</sup> NOTE: The intent of this bill is to bring Howard County into compliance with the State Standard and as it would relate to the proposed CB 62-2019 so there is enhanced protection of the environment. (Natural Resources code Ann. Section 5-1611, Forests and Parks, Subtitle 16 Forest Conservation, Variances, a.) In the preparation of the State or local forest conservation programs

<sup>4</sup> NOTE: Background excerpted from: Study of Alternative Compliance and Waivers for Forest Conservation or Retention, Howard County Maryland- Sample year 2015, Review of Online Decision Letters, October 7, 2019, by Leila Mahlin [samlnbm@comcast.net](mailto:samlnbm@comcast.net) and Neal Vanderlipp [nrv@xcal-sol.com](mailto:nrv@xcal-sol.com)

<sup>5</sup> NOTE: Poster from October 17<sup>th</sup>, 2019 forest conservation update announcement at Savage Park, Howard County, Maryland:

## FOREST CONSERVATION ACT UPDATE

### FULL COMPLIANCE WITH STATE LAW



**12+** updates to the Howard County Forest Conservation Act will officially bring Howard County into compliance with State Law.

- Includes required on-site retention for champion and specimen trees.


### REPLANTING OBLIGATIONS

Raised replanting obligation ratios and created incentive to meet obligations in the affected watershed.


	Forest Cleared	Required Forest Replanted
Current Reforestation	1	.25
Proposed Reforestation	1	1
Proposed in Watershed	1	.5

### IMPROVES STEWARDSHIP OF THE GREEN INFRASTRUCTURE NETWORK (GIN)

- GIN added to retention and reforestation priorities.
- Requires the delineation of the GIN on development plans.



### NEW SITE DESIGN REQUIREMENTS



**75%**  
ON-SITE

Before off-site compliance can be considered:


- residential developments must meet 75% of their forest conservation obligations on-site.
- nonresidential developments must protect all sensitive areas with Forest Conservation Easements.

### FEE-IN-LIEU

Maximum of 1 acre forest obligation can be met through fee-in-lieu in a residential development.


**Inside Planned Service Area**  
Raised from \$0.75 to \$1.25 per sq ft

**Outside Planned Service Area**  
Raised from \$0.95 to \$1.50 per sq ft



### VARIANCES

- Variances will only be granted to applicants meeting the unwarranted hardship standard.
- Increased costs and inconvenience, including loss of lots, does NOT constitute unwarranted hardship.



Submitted by: Leila Mahlin and Neal Vanderlipp  
[samlnbm@comcast.net](mailto:samlnbm@comcast.net) [nrv@xcal-sol.com](mailto:nrv@xcal-sol.com)

## Sayers, Margery

---

**From:** Ralph Heimlich <heimlichfamily@comcast.net>  
**Sent:** Thursday, November 14, 2019 9:31 AM  
**To:** CouncilMail  
**Subject:** I Support CB61-2019 and CB62-2019

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

Howard County Council

MD  
US

RE: I Support CB61-2019 and CB62-2019

Dear Howard County Council,

I support CB61-2019 and CB62-2019 to address many of the problems with waivers and variances around environmental protections (and the requirement for sidewalks!) and improve protections for our remaining forests in Howard County.

Trees solve a number of existing and potential environmental problems:

- Improve water quality by filtering out pollutants,
  - Reduce water quantity by absorbing and slowing stormwater runoff
  - Provide habitat for animals and birds
  - Enhance visual enjoyment because they are beautiful
  - Provide places for outdoor recreation
  - Improve air Quality by filtering air
  - Reduce climate change impacts by sequestering carbon]
- Please pass and implement these new protections.

Thank you!

Sincerely,  
Mr. Ralph Heimlich  
3873 Paul Mill Rd  
Ellicott City, MD 21042  
na

## Sayers, Margery

---

**From:** Valerle Leonard <valerieleonard@comcast.net>  
**Sent:** Wednesday, November 13, 2019 8:14 PM  
**To:** CouncilMail  
**Subject:** I Support CB61-2019 and CB62-2019

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[Why Do You Like Trees?

- Water Benefits including water quality by filtering out pollutants, water quantity by absorbing and slowing stormwater runoff
- Habitat for animals and birds
- Visual enjoyment
- Recreation
- Air Quality by filtering air
- Climate by sequestering carbon]

Thank you!

Sincerely,  
Mrs. Valerle Leonard  
5479 Hound Hill Ct.  
Columbia, MD 21045  
(410) 740-9758

## Sayers, Margery

---

**From:** Tony Cho <tonychodwyer@gmail.com>  
**Sent:** Wednesday, November 13, 2019 3:18 PM  
**To:** CouncilMail  
**Subject:** I Support CB61-2019 and CB62-2019

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- Visual enjoyment
- Recreation
- Air Quality by filtering air
- Climate by sequestering carbon]

Thank you!

Sincerely,  
Mr. Tony Cho  
840 Oella Avenue  
319  
Oella, MD 21043  
(215) 816-9867



## Sayers, Margery

---

**From:** Pragna Bramandlapalli <pragna.b@gmail.com>  
**Sent:** Wednesday, November 13, 2019 1:37 PM  
**To:** CouncilMail  
**Subject:** I Support CB61-2019 and CB62-2019

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- Visual enjoyment
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- Climate by sequestering carbon]

Thank you!

Sincerely,  
Mrs. Pragna Bramandlapalli  
7105 Samuels Ln  
Elkridge, MD 21075  
(443) 364-4127