

Sayers, Margery

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



FISHER, COLLINS & CARTER, INC.
CIVIL, ENGINEERING, CONSULTANTS & LAND SURVEYORS
CONTINENTAL SQUARE OFFICE PARK - 18272 BALTIMORE NATIONAL PIKE
BELLICOFT CITY, MARYLAND 21041
(410) 461-2855

Stephanie Tuite
RLA, PE, LEED AP BD&C
(410) 461-2855
Stephanie@fcc-eng.com

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

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

From: Andrew Aversa <aaversa@gmail.com>
Sent: Saturday, November 16, 2019 11:41 PM
To: CouncilMail
Subject: Support for CB-62

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

I'm a Fulton homeowner, business owner, and father. I am gravely concerned about global warming and the world's constantly growing carbon emissions. Without substantial and rapid changes, we will all suffer from the worsening effects of climate change. This isn't about our children and grandchildren. Climate change is already here in Howard County: Ellicott City's flooding is proof of that.

As such, I vehemently support CB-62. Our forests are the very best tools to draw carbon back down out of the atmosphere. If we can reduce emissions, conserve forests, and plant trees faster than we cut them down, we may yet be able to avoid a worst-case climate scenario. Furthermore, conserving trees will help prevent flooding and reduce erosion, both of which are desperately needed.

I call upon the council to support this bill and every other effort to protect our forests as well as reduce carbon emissions.

Andrew Aversa

www.impactsoundworks.com

www.impactgameworks.com

www.zirconmusic.com

Sayers, Margery

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

From: Kimberly Golden Brandt <kbrandt@presmd.org>
Sent: Friday, November 15, 2019 10:41 AM
To: Walsh, Elizabeth; Jones, Opel; Rigby, Christiana; Jung, Deb;
dyungmann@howardcountymd.org; CouncilMail
Cc: Ball, Calvin; Feldmark, Joshua
Subject: SGAHC Support for CB62 & CR142, Forest Conservation
Attachments: SGAHC Support for CB62 & CR142, Forest Conservation .pdf

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

Dear Council Members,

Please see the attached letter supporting CB62 and CR142 from Audubon Maryland-DC, Clean Water Action, Coalition for Smarter Growth, Community Ecology Institute, Earth Forum of Howard County, HARP, Howard County Citizens Association, Howard County Conservancy, Howard County Sierra Club, Maryland Conservation Council, Maryland League of Conservation Voters, Maryland Ornithological Society, Patapsco Heritage Greenway, Preservation Maryland, Safe Skies Maryland, Savage Community Association, The People's Voice, and Transition Howard County.

Sincerely,
Kimberly

Kimberly Golden Brandt
Director of Smart Growth Maryland
PRESERVATION MARYLAND
3600 Clipper Mill Road, Suite 248
Baltimore, Maryland 21211
o. 410-685-2886 x305 c. 410-598-9026

Smarter Growth Alliance for Howard County

November 15, 2019

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

RE: CB62-2019, Forest Conservation & CR142-2019, Forest Conservation Fee-in-Lieu

Dear Council Members:

The Smarter Growth Alliance for Howard County is an alliance of local and state organizations working together to protect the county's outstanding environmental assets to preserve and enhance the quality of life enjoyed by residents.

We strongly support the proposed changes to local forest conservation law that will not only bring the County into compliance with the Maryland Forest Conservation Act, but also help to better retain priority forests and reforest where needed. Specifying the replanting of native trees will help grow forests that nurture wildlife and provide consistent habitat with other adjoining forested areas. The Site Design Requirements, which stipulate that residential developments with more than one acre of obligation shall meet 75% of it on site, are important for storm water management and for residents to benefit from the natural environment. And using the State standard of "unwarranted hardship" for review and consideration of variances will protect champion trees.

We thank you for taking action to protect and maintain Howard County's forested land. To that end, we ask that you consider the following strengthening amendments to CB62-2019.

- 1. Expanding the definitions of Historic Site and Historic Structure** to include properties and districts listed on the National Register of Historic Places, the Nation's list of historic places worthy of preservation. (Section 16.1201, Definitions)

2. **Adding isolated Targeted Ecological Areas (TEAs) to the list of Forest Retention Priorities.** TEAs represent the most ecologically valuable places in the state as determined by the Maryland Department of Natural Resources. Howard County's TEAs include some of the few remaining natural areas. (Section 16.1205, Forest Retention Priorities)
3. **Increasing reforestation thresholds by 10% for each land use category** to more closely approach the goal of no-net-loss. (Section 16.1206, Reforestation)
4. **Increasing the reforestation ratio** for sites within the same watershed to 1:1 (from ½:1) and to 1.5:1 (from 1:1) for sites outside the same watershed, recognizing that replanted trees do not provide the same ecological benefits as mature trees. (Section 16.1206, Reforestation)
5. **Limiting approval/denial authority for variances** to the Director of Planning and Zoning, the Administrator of Office of Community Sustainability, and the Director of Recreation and Parks in agreement to provide consistent and multi-disciplinary review for all variance applications. This amendment would require removing the Planning Board as an approving/denying entity. (Section 16.1216, Variances)

We also support CR142-2019, which increases forest conservation fee-in-lieu. To ensure that fee-in-lieu is only used when other options are not possible, we ask that you consider further increasing the fees from \$1.25 and \$1.50 per square foot to the \$2.00 - \$3.00 per-square-foot range to better match replanting costs and lost ecosystem services of mature trees.

Finally, we ask that you **further increase fines for violations** to discourage the practice of willfully violating forest conservation laws to reduce project costs.

We thank you for your kind consideration of these comments and for your leadership on this issue.

Sincerely,

Audubon Maryland-DC
David Curson
Director of Bird Conservation

Maryland Conservation Council
Paulette Hammond
President

Clean Water Action
Emily Ranson
Maryland Program Coordinator

Maryland League of Conservation Voters
Kim Coble
Executive Director

Coalition for Smarter Growth
Stewart Schwartz
Executive Director

Maryland Ornithological Society
Kurt R. Schwarz
Conservation Chair

Community Ecology Institute
Chiara D'Amore, Ph.D.
President

Patapsco Heritage Greenway
Mark Southerland, Ph.D.
Vice President for Environment

Earth Forum of Howard County
Sue L. Harris
Director

Preservation Maryland
Kimberly Golden Brandt
Director of Smart Growth Maryland

HARP
Lisa Soto
Chair

Safe Skies Maryland
Mark Southerland, Ph.D.
Legislative Director

Howard County Citizens Association
Stu Kohn
President

Savage Community Association
Susan Garber
Board Chair

Howard County Conservancy
Meg Boyd
Executive Director

The People's Voice, LLC
Lisa M. Markovitz
President

Howard County Sierra Club
Carolyn Parsa
Chair

Transition Howard County
Margo Duesterhaus
President

cc: The Honorable Calvin Ball, County Executive

Sayers, Margery

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

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

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

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](#).

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

and Neal Vanderlipp

nrv@xcal-sol.com

Table of Contents

**CB 62-2019 Analysis
Repeal and Reenacting the Forest Conservation Act of Howard County
November 13, 2019**

By Leila Mahlin and Neal Vanderlipp
samlnbm@comcast.net nrv@xcal-sol.com

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CB 62-2019 Analysis
Repeal and Reenacting the Forest Conservation Act of Howard County
November 11, 2019

SUMMARY-

The purpose of the proposed repeal and reenactment of the Forest Conservation Act of Howard County appears to enhance standards and guidelines to ensure compliance with State standards, to ensure the continued health of the County's forests, and to balance the need for development in the County. (See Note ^{1,3})

We note areas:

I) To enhance alignment between CB 61-2019 and CB 62-2019

II) Suggestions for enhanced alignment with State compliance

III) To enhance forest conservation of parcels less than one acre or less than 10 lots.

The minimal protections to Compact Environments (smaller less developed areas which support Howard County's environmental infrastructure and the Green Infrastructure Network) will end up impacting nearby businesses and homes and impact sub-watersheds. This has been shown to cause flooding and damage to adjacent properties, roads and habitats. In addition to flooding properties, and springs coming up through roads, deepened channels can become sluiceways to destruction downstream. Many established Howard County neighborhoods have been affected by this. As we consider the impacts on our tax base, diminished desirability of some Howard County neighborhoods and loss of business revenue, the importance of considering even small parcels of forested land become apparent.

IV) The focus on larger parcel of lands disproportionately impacts neighborhoods and citizens in the county with average lower income than in other parts of the county.

The forest conservation focus on larger parcels benefits most of the Western part of the county, which in recent "wealth index" reports had four (4) of the five (5) wealthiest zip codes in the State. (See link <https://www.bizjournals.com/baltimore/news/2018/08/10/glenelg-glenwood-wealthiest-zip-codes-in-maryland.html>)

For the remainder of this report the item will be referenced by CB62-2019 page and line number, and occasionally topic so that they can be easily found in the Bill.

I Alignment with CB 61-2019-

- A- P22 L20- Consider changing the language in CB 62-2019 16.1216 Variances (A) to state: “THE DEPARTMENT MAY GRANT **RELIEF** TO THE REQUIREMENTS OF THIS SUBTITLE IN ACCORDANCE WITH THE WAIVER PROCEDURES OF **ONLY** SUBSECTIONS 16.104(B) AND 16.104 (C) OF THE SUBDIVISION REGULATIONS.” (Bold words would be added.) This section in CB 62-2019 refers to information addressed in CB 61-2019.
This would be in closer alignment with the variance language of the Maryland Forest Conservation Act.
- B- P 22 L 23-25- The word “use” in this context in Maryland law appears to refer to not only ability to use the land but also the zoning district. ²
- C- P 22 L 29-32 In this section the Director of the Department of Recreation and Parks is listed as a third party to approve or deny waivers. In CB 61-2019 (P 6 L 15) the Director of the Department of Public Works is mentioned as granting waivers.
 - a. How do these different components relate to each other?
 - b. Could there be 4 different department heads working to grant waivers/variances (additionally DPZ and Office of Sustainability)?
 - c. How will they work together? What if they are not in agreement?

II State Compliance

- A- P 9 L 1-12 If a person fails to file a declaration of intent or is not in compliance they should be required to perform all of I, II, III, and IV. Particularly since (I) is attempting to be in compliance with State standards, (I) should be required. The rest should occur since the non-compliant actions may serve to negatively impact other citizens.
- B- P 23 L 17-19 – The first few words of this read “VERIFY THAT THE *CONDITION* DID NOT ARISE FROM A CONDITION...”. The State regulation “COMAR Sec. 08.19.04.10 Variance B. (5)” uses the language “VERIFY THAT THE REQUEST DID NOT ARISE FROM A CONDITION...”. It is recommended to change the CB62-2019 language to parallel the State regulation which was updated on Nov. 6, 2019.

III Forest Conservation Move to Improve “Compact Environment” Focus

- A- P 5 L19-21 -Urban Canopy refers to providing “habitat benefits”. Does “habitat” include soil and animals? There is acknowledgement that there is benefit to Urban Canopy. These are the areas most likely to have vegetation removed since they will be the smaller parcels. They are most likely to be less than one acre, less than 10,000 square feet of “forest” type vegetation without the required 100 foot width.
- B- P 6 L 10-12 -A single lot smaller than 40,000 square feet which is not subject to a previously approved Forest Conservation Plan does not require a Declaration of Intent to be exempt from filing a Forest Conservation Plan. This exemption may not adequately take into account the impact on adjacent properties and Compact Environments. The loss of thousands of square feet of forest can impact the natural environment and the adjacent properties.
- C- P8 L 6-7 -An exemption to filing a Forest Conservation Plan for a lot less than 20,000 square feet “not subject to a previously approved forest conservation plan” requires a Declaration Of Intent. See above (B). How does this statement align with that? Should it say within a lot smaller than 40,000 sq feet or is there different intent?
- D- P 8 L 16-21 What size subdivision connected with, for example a real estate transaction of transfer of title without change of land use would be exempt from a forest conservation plan but require a declaration of intent?
- E- P 12 L 13-33 Regards On-Site Forest Retention Priorities- Does not appear to address impact on Compact Environments nor prioritize Compact Environments, nor address forest stands in smaller parcels or smaller areas of forest, based on earlier items in the code.
- F- P 16 L 1- 27. Reforestation and Afforestation Priorities- There are small sections of land adjacent to priority locations on this list that are filled with trees, wildlife habitat etc.. that don’t meet the current criteria for forest conservation. Some appear to be adjacent to the Green Infrastructure Network. This appears to be a missed opportunity to protect not only the Compact Environments, the lower wealth index homes, and also the environmental connections for habitat throughout the County.
- G- P 17 L 28-30 Site design requirements for residential infill subdivisions of ten lots or less are exempt from this requirement of onsite obligations for forest conservation. What are the ramifications of exempting all such subdivisions and how that could impact the surrounding homes, businesses, and the environment ?
- H- P 20 L 16 and 23 -Feature extended to create Urban Canopy appears to benefit these areas. It would also appear to benefit the Urban Canopy if stands of trees in smaller parcels were identified and in some cases protected.

IV Disproportionate Impact on Lower Wealth Index Communities in Howard County

- A- P 5 L19-21 -Urban Canopy refers to providing “habitat benefits”. Does “habitat” include soil and animals? There is acknowledgement that there is benefit to Urban Canopy. These are the areas most likely to have vegetation removed since they will be the smaller parcels. They are most likely to be less than 40,000 square feet, less than 10,000 square feet of “forest” type vegetation without the required 100 foot width.
- B- P 6 L 10-12 -A single lot smaller than 40,000 square feet which is not subject to a previously approved Forest Conservation Plan does not require a Declaration of Intent to be exempt from filing a Forest Conservation Plan. This exemption may not adequately take into account the impact on adjacent properties and Compact Environments and how it may impact the residents and businesses of greater density areas in the County. These areas tend to be in lower wealth index communities and in the Eastern part of the County.
- C- P 13 L13- P 14 L1. – Reforestation thresholds, in essence, leaves the Majority of the Eastern part of the County (Non-Tiber) with 20% or less threshold. This area is already environmentally stressed and subject to greater flooding of homes, roads and businesses. These areas, with reduced vegetation and forest canopy are already more likely to be subject to floods. The residents in these areas, based on wealth index by zip code are less likely to be able to afford remediation as this continues. As with the items mentioned in A and B above, this could end up not only negatively impacting these residents but also the tax base and “livability” of neighborhoods in these areas as well as business revenue.
- D- The forest conservation focus on larger parcels benefits most of the Western part of the county, which in a recent “wealth index” report had four (4) of the five (5) wealthiest zip codes in the State. (See link <https://www.bizjournals.com/baltimore/news/2018/08/10/glenelg-glenwood-wealthiest-zip-codes-in-maryland.html>)

V Areas for Clarification

- A- P 4 L 13-18 Net Tract Area- Is calculated to the nearest 1/10 of an acre but not required for smaller parcels in order to keep vegetation under many circumstances.
- B- P 6 L 31- Minor Subdivisions ... “create one additional lot”. Does this mean additional over what is currently approved and could thus include adding a 5th to a four lot, which does not seem to be currently allowed?
- C- P 8 L 16-21 What size subdivision, connected for example with a real estate transaction of transfer of title without change of land use, would be exempt from a forest conservation plan but require a Declaration Of Intent? Please give a range of square footage.
- D- P 8 L 30-33 States that no regulated activity may occur within 5 years of clearing or cutting for any items listed on p 6 L 7 through p 8 L 25, correct?
 - a. Please clarify, does this refer to DPZ regulated?
 - b. Please clarify what happens after 5 years? Is there a process that must be followed?
- E- P 12 L 11 –“STATE CHAMPION TREES, TREES 75% OF THE DIAMETER OF STATE CHAMPION TREES...” Please consider inserting after “75% OF THE DIAMETER ” the words “OR GREATER” or some words to that effect.
- F- P 12 L 13-33 Regards On-Site Forest Retention Priorities- Please explain significance of “ORDER OF PREFERENCE”. What is the impact of this order? Are all of these addressed? What is the procedure for approach?
- G- P 14 L 15-16 -If forest acreage is retained above the threshold why does it need to be credited? How is it credited?
- H- P 17 L 29-30 Site design requirements for residential infill subdivisions of ten lots or less are exempt from this requirement of onsite obligations for forest conservation. What are the ramifications of exempting all such subdivisions and how that could impact the surrounding homes, businesses, and the environment ?

NOTES

¹ Given need to balance rights of owners/developers, government, and other citizens please find the attached information on this.

Attached:

“Various National Cases regarding Real Property Use” – Summary/excerpts from AmericanBar.org

² (Below are notes from presentation Sept 11, 2011 on the Variance Process. Critical Area Commission for the Chesapeake and Atlantic Coastal Bays Coastal Training Program. Link: https://dnr.maryland.gov/criticalarea/Documents/Other_Resources/Building%20in%20the%20Critical%20Area/VarianceProcessWorkshop_092111.pdf)

Variations Can Be Problematic: – Boards grant too many for the wrong reasons – Treated as “minor” regardless of impacts to natural resources – Not treated as a rare exception – Standards, especially “unwarranted hardship” difficult for Boards to apply effectively – Often granted “after-the-fact” and treated as a “solution” to a violation – Often granted on sites with other violations – Mitigation sometimes considered optional, not implemented, or not effective

Variance Standards - Must Meet All 5: – Special features of a site – literal enforcement would result in an unwarranted hardship Applicant deprived of use permitted to others under a local Critical Area program – Cannot confer a special privilege that would be denied others in the Critical Area – Not based on actions by the applicant or related to a neighboring property – Will not adversely affect water quality or habitat and will be in harmony with the general spirit and intent of the law and regulations

Unwarranted Hardship: – Consider special features of the site relating to an applicant’s land or structure – Without the variance, applicant would be denied reasonable and significant use of the entire parcel or lot – Very high standard – goes well beyond “practical difficulty” (strengthened by General Assembly in 2004) – Should not be considering: – Landowner convenience – After-the-fact construction – Owner not knowing regulations – Boards often don’t consider creative site design or engineering options

³ Poster from October 17th, 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

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

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

[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,
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

[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

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- 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. 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

[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,

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

Sayers, Margery

From: Maggie Walker <mlwalker528@hotmail.com>
Sent: Tuesday, November 12, 2019 6:41 PM
To: CouncilMail
Subject: CB 62

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

To the Entire Council of Howard County,

I am sending this email to share my support for the CB 62 bill.

With global warming becoming more and more obvious and real, we need to bring in more trees. I also find it necessary to restrict waivers since the last three delegates in the council gave very little consideration of the lives in down town Ellcott City. I think it's time that we actually tried to keep this planet living a little longer and put greedy people in their places.

Sincerely,

Margaret Walker

Sayers, Margery

From: Kurt Schwarz <krschwa1@verizon.net>
Sent: Tuesday, November 12, 2019 8:18 AM
To: CouncilMail
Cc: Ball, Calvin B
Subject: Howard Bird Club Support for CB62-2019 Forest Conservation Act
Attachments: MOS HCBC CB 62 Forest Conservation.docx

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

Dear Members of the Howard County Council,

The Howard County Bird Club and its parent, Maryland Ornithological Society present their compliments, and is please to submit the attached letter in support of CB62-2019 Forest Conservation Act. Please see the attached file, and enter it into the testimony on CB62.

Best Wishes,

Kurt R. Schwarz
Conservation Chair
Maryland Ornithological Society/Howard County Bird Club
9045 Dunloggin Ct., District 1
Ellicott City, MD 21042
410-461-1643
krschwa1@verizon.net



RE: CB62-19: SUPPORT WITH AMENDMENT

November 12, 2019

Howard County Council
George Howard Building
2430 Court House Drive
Ellicott City, MD 21043
councilmail@howardcountymd.gov

Dear Members of the Howard County Council:

The Howard County Bird Club (HCBC) and its parent organization, the Maryland Ornithological Society (MOS), support CB62-09., the Forest Conservation Act. We applaud any effort to protect trees and habitat from development, and believe CB62-10 would help promote efforts to preserve said trees and habitat.

This bill would enhance forest conservation measures so as to meaningfully protect trees and forested areas that are absolutely critical for local and migratory bird species. As recently reported in the journal Science, North America has lost almost 30% of its birds (nearly 3 billion) since the 1970s, in large part due to habitat loss.¹ Forests, needless to say, are a vital habitat for many bird species, in particular Forest Interior Dwelling Species (FIDS).²

We have witnessed profound declines in FIDS here in Maryland. Between the First Maryland Breeding Bird Atlas (1983-1987) and the Second (2002-2006) the number of blocks occupied by breeding FIDS such as Eastern Whip-poor-wills decreased by 57%,³

¹ Rosenberg, Kenneth, et al, Decline of the North American avifauna, Science, October 4, 2019

<https://science.sciencemag.org/content/366/6461/120.full?ijkey=dcWYzH9MGv131&keytype=ref&siteid=sci>

² Critical Area Commission for the Chesapeake and Atlantic Coastal Bays. A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area, June 2000.

³ Ellison, Walter ed, 2nd Atlas of the Breeding Birds of Maryland and the District of Columbia, Baltimore, 2010, page 197.

Cerulean Warblers by 40%,⁴ Kentucky Warblers by 38%,⁵ Hooded Warblers by 10%,⁶ and Veery by 5%.⁷ This sharp decline over a miniscule amount of time (relative to an ecological timeframe) is one of many red flags that indicate bird species are seriously threatened by habitat loss. For some FIDS the rate of decrease in occupied blocks on the Western Shore was greater than the state-wide decrease, highlighting the significance of lost forests in central Maryland.

While we support the bill, we are puzzled that reforestation ratios seem to fall far short of the “no-net-loss” standard of Maryland’s Forest Conservation Act. We would hope to see this corrected in an amendment or a subsequent bill. We suggest these changes:

Strengthened fee-in-lieu regulation, including a new maximum of 1-acre forest obligation that can be met through fee-in-lieu in a residential development. We propose raising the new fee of \$1.25-\$1.50 per square foot to \$2.00-\$3.00 to better match replanting costs and lost ecosystem services of mature trees that were cleared.

Improved stewardship of Priority Forests, including adding the Green Infrastructure Network to retention and reforestation priorities, as well as requiring its inclusion on development plans. It is critically important that the few remaining natural areas in the county be retained, so we would propose that small Targeted Ecological Areas (TEAs) also be included and that minimum widths for all buffers and reforestation areas be increased to 100 feet.

Reforestation ratios to mitigate forest clearing have been increased from 1/4 :1 to 1/2:1. We would like to see the ratio be increased to 1:1, recognizing that the ecological and climate benefits of replanted trees are hundreds of times lower than mature trees that are cleared.

Reforestation thresholds (i.e., determining the amount of forest that can be cleared without mitigation) are not addressed in this bill and should be increased to more closely approach the no-net-loss goal of the Forest Conservation Act (FCA). We propose that the amount of forest that can be cleared with mitigation be no more than 50% for any land use

The need to preserve our forests is evident. Not only will they provide crucial habitat for our bird species, they buffer streams, keep pollutants out of the Chesapeake Bay, mitigate the effects of climate change,⁸ increase property values as much as 20 percent,⁹ and improve mental and general human health. To protect our forests and to help reverse the

⁴ Ibid, page 345.

⁵ Ibid, page 363.

⁶ Ibid, page 369.

⁷ Ibid, page 299.

⁸ National Public Radio. Trees Are Key To Fighting Urban Heat — But Cities Keep Losing Them, September 4, 2019,

<https://www.npr.org/templates/transcript/transcript.php?storyId=755349748>

⁹ Chesapeake Bay Foundation. Forest Loss: Trees Play a Crucial Role in Keeping Our Waters Clean, <https://www.cbf.org/issues/forest-loss/>, viewed October 2, 2019.

alarming trends we are seeing across many bird species in the Chesapeake Bay watershed and beyond, we ask you to support Bill 62-19.

The Howard County Bird Club is a volunteer organization of over 200 members, which seeks to promote the knowledge, development, protection, and conservation of bird life and other naturally occurring species and their habitats. We are a chapter of the Maryland Ornithological Society (www.mdbirds.org), which is state-wide and has about 1,800 members, and 15 Chapters.

Sincerely,

Mary Lou Clark
President
Howard County Bird Club
5153 Morningside Lane
Columbia, MD 21043
410-465-4061
doctorfx_99@yahoo.com

Kurt R. Schwarz
Conservation Chair
Maryland Ornithological Society/Howard County Bird Club
9045 Dunloggin Ct., District 1
Ellicott City, MD 21042
410-461-1643
krschwa1@verizon.net

CC: County Executive Dr. Calvin Ball