

CR142

**Sayers, Margery**

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**From:** Mark Southerland <mark.t.southerland@gmail.com>  
**Sent:** Tuesday, November 19, 2019 1:35 PM  
**To:** CouncilMail  
**Subject:** Forest Con CB62 and CR142 Testimony by Southerland  
**Attachments:** Testimony of Southerland on HC Forest Conservation Act CB62 and CB142  
18NOV2019.docx

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My testimony from last night.

Mark Southerland, Ph.D.

**Testimony on Forest Conservation CB62 and CR142**  
**18 November 2019**

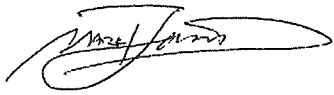
I was formerly chair of Howard County Environmental Sustainability Board and now serve on boards of Howard County Conservancy, Patapsco Heritage Greenway, and Safe Skies Maryland, but I am testifying as an individual today.

I applaud the Ball Administration for moving to fix the forest conservation law in Howard County, one that has been failing for 20 years. In fact, fixing forest conservation was among the top priorities of the original Commission on Environmental Sustainability that I co-chaired in 2007, and has been a priority of the Environmental Sustainability Board (ESB) ever since. I am especially happy to see protection for the county's Green Infrastructure Network (GIN), which was an initiative of ESB completed by the Department of Planning and Zoning (DPZ), and patterned after the Maryland DNR Green Infrastructure, that I also worked on.

Very briefly, I will highlight five of the many laudable provisions of the bill and indicate where we can make it better.

- **Full compliance with State law**, including required on-site retention for champion and specimen trees and tightened variance regulation to eliminate exceptions based on increased costs and loss of lots. It is unfortunate that these losses were allowed to happen for so long; we need regular accounting to make sure the new rules are followed to the letter and intent.
- **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. I recommend 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**, so that it now includes the GIN as retention and reforestation priorities, as well as requiring its inclusion on development plans. It is critically important that the few remaining high quality natural areas in the county be retained, so I recommend that isolated Targeted Ecological Areas (TEAs) outside of the GIN also be included.
- **Reforestation ratios** to mitigate forest clearing have been increased. I recommend that the increases be greater, i.e., raised within the watershed from 1/2 :1 to 1:1 and outside to 1.5:1, 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). I recommend that the amount of forest that can be cleared without mitigation be decreased in each land use by an additional 10%.

Thanks again for taking on this important effort to fix the Forest Conservation law and I hope you will consider amendments to improve it in the areas I have highlighted.

A handwritten signature in black ink, appearing to read "Mark Southerland". The signature is stylized with a large, sweeping flourish at the end.

Mark Southerland, Ph.D.  
6135 Llanfair Drive  
Columbia, MD 21044

## **Sayers, Margery**

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**From:** Carolyn Parsa <carolyn.parsa@mdsierra.org>  
**Sent:** Tuesday, November 19, 2019 11:54 AM  
**To:** Rigby, Christiana; Jung, Deb; Walsh, Elizabeth; Jones, Opel; Yungmann, David  
**Cc:** Ball, Calvin; CouncilMail  
**Subject:** Support CB-62 & CR-142  
**Attachments:** CR-62 CR-142 HoCo SC Testimony.pdf

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

Howard County Council:

Please find the written testimony from the Howard County Sierra Club in support for CB-62 & CR-142.

The Sierra Club world urge you not to weaken this bill, but instead to keep it strong, and maybe even look for ways to make it stronger.

Thank you for all your hard work.

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Carolyn Parsa  
Sierra Club Howard County Chair

November 18, 2018



Sierra Club Howard County

RE: Support - CB-62 Updates to the Forest Conservation Act  
Support - CR-142 Increasing the Fee Schedule

The Sierra Club appreciates all the work done by the Office of Community Sustainability and supports the timely efforts to update the Forest Conservation Act for Howard County to not only bring it up to the level of protection specified in the Maryland Forest Conservation Act, but to also increase protections in some key areas that will most benefit our county.

Protection for champion trees is critical to maintaining our forest and tree canopy. Previously, large trees were removed because the criteria for granting a variance was "practical difficulties." With the new criteria of "unwarranted hardship," On-site retention for champion and specimen trees as required by State law will require developers to change their plans to accommodate keeping these trees. The results of this change will reduce grading and disturbing soil, which will in turn reduce stormwater run off as well as resulting in a more pleasing development with shade trees that benefits people as well as wildlife.

Of concern, however, is how these variances will be granted. There are two proposed processes for granting variances in the new plan. Certain variances are granted by the Department of Planning and Zoning (DPZ) by way of the Planning Board, while other variances are granted in agreement with the DPZ, the Office of Community Sustainability and the Department of Recreation and Parks. For consistency and to provide better oversight, the Sierra Club would ask that you amend the bill to have all variances be approved by the process of going before each of the three departments. This ensures a check and balance approach as well as bringing new eyes to project plans so that more creative solutions can be found.

The Sierra Club is also concerned that non-compliance with the retention of champion trees might be an issue that comes up. The penalties for removing trees that are protected by law as champion or specimen trees must be high enough to discourage developers from removing trees when they aren't allowed to and then just paying a fee later. Penalties

and fees for illegal removal of specimen and champion trees must be high enough to discourage the actions of removing trees that are suppose to be protected. If there is any amendment added for removal of a dead, dying, or diseased tree, please add that such a variance must be given after a third party confirms that the health of the tree warrants such a removal. If nobody inspects and checks the tree, then this reason for tree removal may be overused. Please don't weaken the rule for this reason without adding in checks and balances. This part of the law must remain strong to protect our remaining champion trees, as is required by the Maryland Forest Conservation Act.

The Sierra Club is glad to see that replanting ratios will be increased with an incentive to replant in the watershed. Each watershed where the development is active will benefit from reforestation within that same watershed. The specification that native trees will be chosen to replant is also important, as native trees will more easily thrive and also support more wildlife species than a non-native tree. Another improvement in this plan is the extension of the maintenance plan from 2 years to 3 years for replanted areas.

The site design requirements section, while not required by Maryland Law, is important to add because it specifies that residential developments must meet 75% of their forest conservation obligations on-site before off-site compliance can be considered. This is another step in the process to help us keep our trees where they are or replant them where they were.

Many new limits on the use of the fee-in-lieu are welcome. The use of fee-in-lieu should be the last resort, since replanting should be done ideally on site and in a timely manner by the developer. The new bill stipulates that a maximum of 1 acre forest obligation can be met through fee-in-lieu in a residential development. This new rule, together with raising the rates should provide an incentive for the developer to keep and/or plant more trees. Please also consider raising the rates for the fee-in-lieu to further reinforce the value of retaining and replanting trees in the watershed.

Improved stewardship of the Green Infrastructure Network (GIN), which maps the most ecologically valuable forests, wetlands, meadows, waterways, and other natural areas as well as the land that connect them together. The updated bill will add GIN to retention and reforestation priorities, as well as requiring its inclusion on development plans. We hope that these areas are considered valuable for protecting, keeping their connectivity intact and even at times adding to them with additional protected areas.

We support the update to this plan, and encourage amendments to strengthen it. This is an important step to protecting our forests in Howard County.

Please support & strengthen CB-62 and CR-142.

Carolyn Parsa  
Chair, Howard County Sierra Club

## Sayers, Margery

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**From:** Kimberlee Drake <kimdrakeenv@gmail.com>  
**Sent:** Monday, November 18, 2019 4:05 PM  
**To:** CouncilMail  
**Subject:** Support CB 62, CR142

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

Dear Howard County Councilmembers,

I support CB 62 and CR 142.

I speak for myself, but also support testimony sent or to be sent by groups that I am involved in: Smarter growth alliance for Howard County and the Howard County Sierra club.

I would support amendments that strengthen this bill as well.

We need trees now more than ever to help sequester all the Carbon we have put into our atmosphere.

Thank you,

Kim Drake

District 2

## Sayers, Margery

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**From:** Susan Garber <buzysusan23@yahoo.com>  
**Sent:** Monday, November 18, 2019 3:28 PM  
**To:** CouncilMail  
**Subject:** Questioning Council Bill No CR 142-2019; Forest Conservation Fees in Lieu

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

Dear Council members,

I appreciate the effort that went into proposing higher fees-in-lieu and the explanation by the administration of how they are calculated. Ultimately fees-in-lieu never seem to benefit the County and its citizens. Despite being quite pleased by one acre being the proposed maximum for which one can use fee-in-lieu, I am somewhat disappointed that the fee calculation does not include the cost of county land or easements on which the trees will be planted.

In fact, I have to admit that I did not previously grasp that all reforestation resulting from fee in lieu must occur on existing County property. If the fee actually included the cost of additional land, one of Howard County's most precious and costly resources, it could produce a better outcome, i.e. more forested open space. Ideally, Howard County would establish an Open Space Zone and PLAN for its acquisition over time, rather than just accept scraps from development projects. The fact that every square foot of Howard County has an underlying residential zone assigned to it—including even the Patapsco State Park—should be alarming to all.

As a fan of purchasing and protecting EXISTING forested land, due to the significantly higher benefit produced by mature trees (increased oxygen production, carbon sequestration, ground and air absorption of rain, soil stabilization, etc.) I would prefer consideration of what could be called a Land- in- Lieu system. Perhaps land banking could be expanded to include this concept.

In summary, I believe that if we are to continue with fees-in-lieu, they should be increased at least to the level proposed.

Regards,

Susan Garber



## Sayers, Margery

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**From:** Gayle Killen <killchar@gmail.com>  
**Sent:** Monday, November 18, 2019 3:14 PM  
**To:** CouncilMail  
**Cc:** Walsh, Elizabeth; Dvorak, Nicole  
**Subject:** I support CB62 Forest Conservation Act and CB142 Forest Conservation Fee-In-Lieu.

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

CB62-2019, CB142-2019

I support CB62 Forest Conservation Act and CB142 Forest Conservation Fee-In-Lieu.

Historic Ellicott City is a tragic example of subtractive forestry management. Areas that were once vegetated acted as sponges for rain traveling down hills but are now runoff ramps to the roadway, while the roads crumble into our waterways. My perspective is admittedly dramatic, but that's how we're living here on Main Street in Historic Ellicott City. My neighbors on New Cut Road are equally concerned for tree and vegetative losses. I hear concern from all my neighbors up and down Main St. Who would permit the destruction of the very systems we need to survive?

I hope you can recognize that our forest related efforts have been subtractive and that it is now time to turn around and go in the other direction. We're overdue for an effort to preserve and protect, for reasons that exceed the real estate value of develop-able lots. Forest conservation efforts impact not just the structures of Historic communities, but the greater future of our people.

Please work hard to find ways to add to our forest. From the bottom of the Patapsco Valley, I thank you.

Sincerely,  
Gayle Killen  
[killchar@gmail.com](mailto:killchar@gmail.com)  
443-467-1142  
8572 Main Street Historic Ellicott City, MD 21043

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Every great advance in natural knowledge has involved the absolute rejection of authority.  
~Thomas H. Huxley

## Sayers, Margery

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**From:** Susan Garber <buzysusan23@yahoo.com>  
**Sent:** Monday, November 18, 2019 2:17 PM  
**To:** CouncilMail  
**Subject:** In support of CB-62

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

Good afternoon Council members,

I refer you to my latest blog on Forest Conservation and CB-62: <http://howcome.md/how-come-hocos-been-out-of-compliance-with-state-forest-con-regs/>

I appreciate the effort of everyone involved in bringing this bill to the floor and I sincerely hope it will continue to have your full support.

Best regards,

Susan Garber

**Sayers, Margery**

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**From:** Leonardo McClarty <lmclarty@howardchamber.com>  
**Sent:** Monday, November 18, 2019 1:51 PM  
**To:** CouncilMail  
**Cc:** Sidh, Sameer; Jones, Jennifer D.  
**Subject:** Written Testimony RE: CB 61, CB 62, CB 63, and CR 142  
**Attachments:** Forest Conserve Bills\_11.18.19.pdf

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

Council members:

Please find attached commentary from the Chamber on CB 61, CB 62, CB 63, and CR 142.

Thanks

Leonardo McClarty



HOWARD COUNTY  
CHAMBER



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

November 18, 2019

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

**RE: CB 61, CB 62, CB 63, and CR 142**

Dear Councilwoman Rigby:

Over the past year, the Howard County Chamber has observed the desire of the Council to introduce and implement land use policies as part of efforts to address various environmental concerns. As these policies are introduced, the Chamber believes it is important to balance environmental concerns with clearly implementation and developmental realities. In reviewing, Council Bills 61, 62, 63, and Council Resolution 142, the Chamber is concerned that these legislative initiatives present fragmented changes to the code that are likely to cause more confusion and unpredictability to both the business community and residents.

The Chamber does not disagree with the need for changes to land use related codes. However, we do believe that these changes should be done as part of a comprehensive review. The revision of the General Plan is a logical step that would address concerns for elected officials, residents and businesses.

The following bills and resolutions are of concern:

- **CB 62-19 Forest Conservation Code repeal and reenact.** This bill contains some significant changes and there is concern that there has been no study or opportunity for community input.
- **CR 142-19 Forest Conservation fee.** The Chamber does not have an issue with the increase in fees. However, it should be noted that paying the fee in lieu is the last resort and least preferred approach to mitigating loss of forest. Any imposed fee should be used by the County to plant forest as mitigation and not as a revenue generator for other expenses that does not add forest. Under the current fee structure, it should be a rare case where the fee is paid. There are numerous forest banks in the county and those are available at a far lower cost than the current fee, much less the new fee. Under the new criteria, it is more likely fees will be paid and then used for "any purpose related to implementation for the forest conservation program."
- **CB 61-19 Section 16.104 Waivers.** There is confusion as the bill is currently written. For example, the bill seems to grant authority to the Department of Planning and Zoning (DPZ), the Department of Public Works (DPW) AND the Office of Community Sustainability (OCS) to grant waivers. As drafted, it appears that any one of these offices can independently grant a waiver. Yet, on Page 6 lines 13 -18, Section

16.134 Sidewalks require both DPZ *AND* the Office of Transportation approve the waiver. There are more examples where this just creates confusion and is in conflict with Section 16.104 of the code that grants the authority to DPZ. All of the agencies are part of the subdivision review committee (Section 16.108 B (47)) and collaborate with DPZ in reaching a decision. It's seems reasonable that one agency should be charged with making the final appellate decision.

- **CB 63-19 Scenic Roads.** This is another change to the code that does not consider the overall policy that would come from a new General Plan. Again, there are policies that may conflict with other plans like the bicycle master plan that encourages adding bike lanes.
- **CR 145-19.** This resolution is interesting in that along with the above legislation, the Council is considering the granting of height and setback variances while making none of the findings that would be necessary for such action on private property.

In closing, the Chamber appreciates the desire of council to improve our current land use policies and to implement fees that are fair and equitable. We all want to achieve an adopted goal that is consistent with Maryland mandated Smart Growth policy. Simultaneously, it is important not to have frequent legislative changes that create policy that distracts from the goal of planned land use. The Chamber would be more than happy to participate in a work group that helps us all balance sustainable land use policies with development realities.

Respectfully,



Leonardo McClarty, CCE  
President/CEO, Howard County Chamber

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