

Introduced November 4, 2019
Public Hearing November 18, 2019
Council Action December 2, 2019
Executive Action December 6, 2019
Effective Date February 5, 2020

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 13

Bill No. 61-2019

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending the criteria for granting waivers from the requirements of the Howard County Subdivision and Land Development Regulations; requiring survey bearings and distances on plans to delineate wetlands and required wetland and stream buffers; prohibiting the impact on certain steep slopes established by the prior development of the property; requiring that the Office of Community Sustainability and the Department of Public Works review certain requests for necessary disturbances; establishing criteria for alternative compliance from the provisions of the Subdivision and Land Development Regulations; providing that the Office of Transportation will also review requests to eliminate sidewalk requirements; and generally relating to alternative compliance, waiver and variances of the Subdivision and Land Development Regulations.

Introduced and read first time November 4, 2019. Ordered posted and hearing scheduled.

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on November 18, 2019.

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on December 2 2019 and Passed , Passed with amendments , Failed .

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 4th day of December 2019 at 3 a.m. (p.m.).

By order

Diane A. Jones
Diane Schwartz Jones, Administrator

Approved Vetoed by the County Executive December 6 2019

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

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

3
4 *By amending*

5 *Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations*

6 *Section 16.104. Waivers.*

7 *Section 16.116. Protection of wetlands, streams, and steep slopes*

8 *Sec. 16.134. Sidewalks and walkways.*

9
10 **Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations.**

11 **Subtitle 1. Subdivision and Land Development Regulations.**

12 **Article I. General.**

13
14 **Section 16.104. –Waivers.**

15 (a) *Authority to Grant.*

16 (1) So that substantial justice may be done and the public interest secured, the Department of
17 Planning and Zoning may grant waivers of the requirements of this subtitle, except as
18 prohibited in subsection (d), in situations where the Department finds that ~~[[extraordinary~~
19 ~~hardships]]UNREASONABLE HARDSHIP, OTHER THAN ECONOMIC,~~ or practical difficulties
20 may result from strict compliance with this subtitle ~~[[or determines that the purposes of~~
21 ~~this subtitle may be served to a greater extent by an alternative proposal]]~~ AND FOR
22 REQUESTS TO WAIVE OR ALTER THE REQUIREMENTS IN ARTICLE II AND ARTICLE III OF THIS
23 SUBTITLE ALL OF THE FOLLOWING CRITERIA ARE MET:

24 (i) STRICT CONFORMANCE WITH THE REQUIREMENTS WILL DEPRIVE THE APPLICANT OF
25 RIGHTS COMMONLY ENJOYED BY OTHERS IN SIMILAR AREAS;

26 (ii) THE UNIQUENESS OF THE PROPERTY OR TOPOGRAPHICAL CONDITIONS WOULD RESULT IN
27 PRACTICAL DIFFICULTY , OTHER THAN ECONOMIC, OR UNREASONABLE HARDSHIP FROM
28 STRICT ADHERENCE TO THE REGULATIONS;

29 (iii) THE VARIANCE WILL NOT CONFER ON THE APPLICANT A SPECIAL PRIVILEGE THAT
30 WOULD BE DENIED TO OTHER APPLICANTS AND;

1 (IV) THE MODIFICATION IS NOT DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY OR WELFARE
2 OR INJURIOUS TO OTHER PROPERTIES.

3 (2) WAIVERS MAY BE GRANTED WITHOUT MEETING THE CRITERIA OF SUBSECTION (A) IF THE
4 WAIVER:

5 (I) IS NECESSARY FOR THE RECONSTRUCTION OF EXISTING STRUCTURES OR INFRASTRUCTURE
6 DAMAGED BY FLOOD, FIRE, OR OTHER DISASTER;

7 (II) IS NECESSARY FOR THE CONSTRUCTION OF A STORMWATER MANAGEMENT OR FLOOD
8 CONTROL FACILITY AS PART OF A CAPITAL PROJECT; OR

9 (II) IS NECESSARY FOR THE RETROFIT OF EXISTING FACILITIES OR INSTALLATION OF NEW
10 FACILITIES INTENDED SOLELY TO IMPROVE STORMWATER MANAGEMENT OR FLOOD
11 CONTROL FOR EXISTING DEVELOPMENT.

12 (b) *Conditions Under Which Waiver May Be Granted.* The Department of Planning and Zoning
13 may approve a waiver to a provision of this subtitle provided that:

14 (1) The developer has presented a petition demonstrating the desirability of waiver; if the
15 County requests additional justifying information, the information must be submitted
16 within 45 days of the Department's letter of request. If the information is not submitted by
17 the deadline, the Department shall deny the petition.

18 (2) The waiver shall not have the effect of nullifying the intent and purpose of this subtitle.

19 (3) Within 30 days of the date of the Department's decision letter regarding a waiver petition,
20 the developer may submit additional information to support a request for the Department
21 to:

22 (i) Modify any approval conditions;

23 (ii) Reverse the Department's denial; or

24 (iii) Add or delete specific waiver requests.

25 (4) After 30 days, requests for reconsideration will require a new petition for a waiver and
26 payment of fees in accordance with the adopted fee schedule.

27 (5) Any waiver to the minimum requirements of this subtitle in regard to a particular
28 subdivision or development shall be appropriately noted on the final plat or site plan.

29 (c) *Period of Validity.* The waiver petition, if approved, will remain valid for 12 months from the
30 date of approval or as long as a subdivision or site development plan is being actively processed

1 in accordance with the processing provisions of section 16.144 of this subtitle. Subdivisions or site
2 developments which fail to meet the processing requirements will be required to submit a new
3 waiver request. [Waivers granted to extend time limits for plan processing will remain valid for
4 the time duration specified.]

5 (d) *No Waivers of Floodplain, Wetland, Stream, or Steep Slope Regulations in the Tiber Branch*
6 *Watershed*. The Department may not grant waivers of any requirement of section 16.115 or section
7 16.116 of this title for any property located in the Tiber Branch Watershed unless the waiver:

- 8 (1) Was requested on or before November 7, 2016;
- 9 (2) Is necessary for the reconstruction of existing structures or infrastructure damaged by
10 flood, fire, or other disaster;
- 11 (3) Is necessary for the construction of a stormwater management or flood control facility as
12 part of a redevelopment project;
- 13 (4) Is necessary for the retrofit of existing facilities or installation of new facilities intended
14 solely to improve stormwater management or flood control for existing development;
- 15 (5) Is requested as part of a development proposal and the Director of the Department of Public
16 Works, or his designee serving as Floodplain Administrator, finds that upon completion of
17 construction of the development, which may include off-site improvements within the
18 Tiber Branch Watershed, there will be improvement to flood control in the Tiber Branch
19 Watershed at least ten percent more than what would otherwise be required by law; or
- 20 (6) Is necessary for the construction of an addition, garage, driveway or other accessory use
21 improvement of an existing residential structure on property located within the Tiber
22 Branch Watershed that increases the square footage of the impervious surfaces on the
23 property by no more than 25 percent over the square footage of impervious surfaces that
24 existed on the property prior to the effective date of this bill [Dec. 9, 2016].

25
26 **Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations.**

27 **Subtitle 1. Subdivision and Land Development Regulations.**

28 **Article II. Design Standards and Requirements.**

29
30 **Section 16.116. - Protection of wetlands, streams, and steep slopes.**

1 (a) *Streams and Wetlands:*

- 2 (1) Grading, removal of vegetative cover and trees, paving, and new structures shall not be
3 permitted within 25 feet of a wetland in any zoning district.
- 4 (2) Grading, removal of vegetative cover and trees, paving, and new structures shall not be
5 permitted within:
- 6 (i) Fifty feet of an intermittent stream bank;
- 7 (ii) Seventy-five feet of a perennial stream bank for Use I streams as classified by the
8 Maryland Department of the Environment in residential zoning districts and residential
9 and open space land uses in the NT, PGCC, and MXD districts;
- 10 (iii) One hundred feet of a perennial stream bank for Use III and IV streams; and
11 (iv) Fifty feet of a perennial stream bank in nonresidential zoning districts.
- 12 (3) In residential subdivisions, wetlands, streams, and their buffers shall be located in required
13 open space or a nonbuildable preservation parcel rather than on residential lots except as
14 permitted by section 16.120 of this subtitle.
- 15 (4) Wetlands and the required buffers for wetland and streams shall be delineated on final plats
16 and site development plans with a clear notation of use restrictions. WETLAND LIMITS
17 SHALL BE IDENTIFIED WITH SURVEYED BEARINGS AND DISTANCES. Wetlands need not be
18 delineated for agricultural preservation subdivisions or rural cluster subdivisions if a
19 qualified professional certifies that wetlands and buffers will not be impacted by the
20 proposed lots or potential development.

21 (b) *Steep Slopes.* Steep slopes are slopes that average 25 percent or greater over ten vertical feet.

- 22 (1) Grading, removal of vegetative cover and trees, new structures, and paving shall not be
23 permitted on land with existing steep slopes, except when:
- 24 (i) The on-site and off-site contiguous area of steep slopes is less than 20,000 square feet}};
25 and}};
- 26 (ii) There is sufficient area, a minimum ten feet, outside of stream and wetland buffers for
27 required sediment and erosion control measures[[.]]; AND
- 28 ~~(iii) THE EXISTING STEEP SLOPES ARE MAN-MADE ESTABLISHED BY THE PRIOR DEVELOPMENT~~
29 ~~OF THE PROPERTY~~

1 (2) In residential subdivisions steep slopes existing at the time of subdivision shall be located
2 in required open space or a nonbuildable preservation parcel, except as permitted by
3 section 16.120 of this subtitle.

4 (c) *Necessary Disturbance:*

5 (1) Grading, removal of vegetative cover and trees, and paving are not permitted in wetlands,
6 streams, wetland buffers, stream buffers or steep slopes unless the Department of Planning
7 and Zoning, IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC WORKS AND OFFICE OF
8 COMMUNITY SUSTAINABILITY, determines based on a detailed justification provided by the
9 developer that:

10 (i) It is necessary for construction of public or private roads, driveways, utilities, trails,
11 pathways, or stormwater management facilities which are essential for reasonable
12 development of the property;

13 (ii) The design minimizes disturbance;

14 (iii) There is no other reasonable alternative; and

15 (iv) The cost of an alternative improvement shall not be a factor in deciding whether the
16 criteria in subject subsection (i) above can be met.

17 (2) Reasonable development, for the purpose of this subsection, does not guarantee maximum
18 possible development under the zoning regulations for density receiving subdivisions in
19 the RC and RR zoning districts. In any zoning district, achieving the maximum possible
20 density is not sufficient justification alone to allow disturbance.

21 (3) If permitted, the grading, removal of vegetative cover and trees, or construction shall only
22 be to the extent required to accommodate the necessary improvements. In these cases, the
23 Department of Planning and Zoning shall require the least damaging designs, such as
24 bridges, bottomless culverts or retaining walls, as well as environmental remediation,
25 including the planting of the areas where grading or removal of vegetative cover or trees
26 has taken place utilizing best practices for ecological restoration and water quality
27 enhancement projects.

28 (4) An applicant shall request permission from the Department of Planning and Zoning for a
29 necessary disturbance exception in writing for the grading, removal of vegetative cover
30 and trees, or paving as described in subsection (c) of this section.

1 (5) The Department of Planning and Zoning shall make available to the County Council and
2 the public on the Department's webpage a monthly report that includes the following
3 information for each application for a necessary disturbance exception:

- 4 (i) The name of the applicant;
- 5 (ii) The date of the application;
- 6 (iii) Project name;
- 7 (iv) Project type;
- 8 (v) A description of the project;
- 9 (vi) The action of the Department to deny the application, approve the application, or advise
10 the applicant to seek alternative compliance; and
- 11 (vii) If approved, include in the report the applicant's mitigation requirement.

12 (D) *WAIVERS.*

13 (1) ~~FOR PRIVATE DEVELOPMENT PROJECTS, THE~~ THE DIRECTOR OF THE DEPARTMENT OF
14 PLANNING AND ZONING, THE ADMINISTRATOR OF THE OFFICE OF COMMUNITY
15 SUSTAINABILITY AND THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS MAY GRANT
16 WAIVERS WHICH ALLOW FOR ALTERNATIVE COMPLIANCE TO THIS SECTION IF THE
17 APPLICANT CAN DEMONSTRATE IN SUFFICIENT DETAIL THROUGH EVIDENCE THAT THE
18 PROJECT MEETS THE CRITERIA SET FORTH IN SECTION 16.104 AND THE FOLLOWING
19 ADDITIONAL CRITERIA:

- 20 (I) ANY AREA OF DISTURBANCE IS RETURNED TO ITS NATURAL CONDITION TO THE
21 GREATEST EXTENT POSSIBLE;
- 22 (II) MITIGATION IS PROVIDED TO MINIMIZE ADVERSE IMPACTS TO WATER QUALITY AND
23 FISH, WILDLIFE, AND VEGETATIVE HABITAT; AND
- 24 (III) GRADING, REMOVAL OF VEGETATIVE COVER AND TREES, OR CONSTRUCTION SHALL
25 ONLY BE THE MINIMUM NECESSARY TO AFFORD RELIEF AND TO THE EXTENT REQUIRED
26 TO ACCOMMODATE THE NECESSARY IMPROVEMENTS. IN THESE CASES, THE LEAST
27 DAMAGING DESIGNS SHALL BE REQUIRED, SUCH AS BRIDGES, BOTTOMLESS CULVERTS
28 OR RETAINING WALLS, AS WELL AS ENVIRONMENTAL REMEDIATION, INCLUDING THE
29 PLANTING OF THE AREAS WHERE GRADING OR REMOVAL OF VEGETATIVE COVER OR

1 TREES HAS TAKEN PLACE, UTILIZING BEST PRACTICES FOR ECOLOGICAL RESTORATION
2 AND WATER QUALITY ENHANCEMENT PROJECTS.

3 (2) TO DETERMINE IF THE WAIVER IS WARRANTED, THE DEPARTMENTS MAY REQUEST AN
4 ALTERNATIVES ANALYSIS, THAT MAY INCLUDE DIFFERENT PLAN CONCEPTS AND THAT
5 CLEARLY DEMONSTRATES THAT NO OTHER FEASIBLE ALTERNATIVE EXISTS AND THAT
6 MINIMAL IMPACTS WILL OCCUR AS A RESULT OF GRANTING THE MODIFICATION.

7 (3) Waivers under this subsection shall be reported by the Department of Planning
8 and Zoning in the same manner as required under subsection (c)(5) applicable to
9 necessary disturbance exceptions.

10 (4) THE DEPARTMENT OF PUBLIC WORKS SHALL RECUSE ITSELF FROM CONSIDERATION OF ANY
11 CAPITAL PROJECTS SEEKING WAIVERS.

12
13 **TITLE 16. PLANNING, ZONING, AND SUBDIVISIONS AND LAND**
14 **DEVELOPMENT REGULATIONS.**

15 **SUBTITLE 1. SUBDIVISION AND LAND DEVELOPMENT REGULATIONS.**

16 **ARTICLE III. REQUIRED IMPROVEMENTS.**

17
18 **Section 16.134. Sidewalks and walkways.**

19 (a) *Sidewalks Required.* The developer shall provide for the construction of sidewalks pursuant to
20 this section and the Design Manual.

21 (1) *Residential development.* In residential subdivisions and site developments the developer
22 shall construct sidewalks on both sides of all streets in the project and along the project
23 frontage except that:

24 (i) Sidewalks are required on only one side of cul-de-sacs and local streets of single-family
25 detached subdivisions.

26 (ii) No sidewalks are required on cul-de-sacs or private streets of any development with
27 ten or fewer dwelling units except along the portion of the development that fronts on
28 a County or State road. For minor subdivisions, if a developer chooses not to construct
29 sidewalks along the portion of the development that fronts on a County or State road,
30 the developer shall pay a fee-in-lieu of sidewalk construction. The fee-in-lieu shall be

1 based on the unit prices for the cost to construct the sidewalk, including the associated
2 curb and gutter, and shall be spent on sidewalks in the same general plan planning area
3 as the development.

4 The Department of Planning and Zoning may accept a fee-in lieu from developers for
5 developments of five to ten dwelling units located on local roads if there are:

- 6 1. No existing adjacent sidewalks; or
- 7 2. No institutional, school, public or retail facilities, within 1,000 feet.

8 Any residential sidewalk requirement that was satisfied by paying a fee-in-lieu may
9 be subsequently constructed by the County through the capital budget process.

10 (iii) No sidewalks are required in the RC or RR zoning district.

11 (iv) Sidewalks on State roads may not be required if the State Highway Administration
12 determines that sidewalks are not appropriate in a specific location.

13 (2) *Nonresidential developments.* In nonresidential subdivisions and site developments the
14 developer shall construct sidewalks on one or both sides of the street, if the Department of
15 Planning and Zoning deems it necessary to serve anticipated internal pedestrian traffic, to
16 provide access to transit stops, or to make connections to surrounding land uses.

17 (b) *No Sidewalks Required.* APPROVAL BY THE [[The]] Department of Planning and Zoning AND
18 OFFICE OF TRANSPORTATION IS REQUIRED TO [[may]] eliminate all or part of the sidewalk
19 requirement where:

20 (1) One side of a street adjoins a landscaped parking island, park, golf course or other type of
21 use which does not require a sidewalk and where continuity is not essential.

22 (2) Adjacent development (recorded plat) has been substantially completed without sidewalks,
23 pursuant to prior approvals, and there is no need for sidewalks to serve commercial or
24 institutional uses, schools, parks, or other public facilities, or make connections to nearby
25 streets or transit service.

26 (3) Sidewalks would be detrimental to the character of a scenic road and are not needed to
27 serve school, shopping or active recreation areas.

28 (4) Sidewalks on State roads may not be required if the State Highway Administration
29 determines that sidewalks are not appropriate in a specific location.

1 (c) *Sidewalks beyond Subdivision.* At the County's sole option, a developer may be required to
2 extend the sidewalk construction up to 250 feet beyond the proposed development to the nearest
3 public sidewalk or pathway or pay the cost of such construction if:

4 (1) The continuation of the sidewalk is necessary to provide safe pedestrian travel or to
5 complete a sidewalk or pathway system;

6 (2) The Director of Planning and Zoning has determined that the nearest public sidewalk or
7 pathway is in close proximity to the proposed subdivision; and

8 (3) The necessary rights-of-way exist or have been acquired by the developer or the County.

9 (d) *Walkways:*

10 (1) *Residential development.* If the Department of Planning and Zoning determines that
11 construction of sidewalks is infeasible or insufficient, an on-site pedestrian walkway to
12 provide access to commercial or institutional uses, schools, or other public facilities such
13 as parks, nearby streets or connections to transit service may be required.

14 (2) *Nonresidential development.* The design of site development plans for nonresidential
15 development shall incorporate on-site pedestrian circulation.

16
17 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***
18 ***this Act shall become effective 61 days after its enactment.***

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on December 6, 2019.

Diane Schwartz Jones
Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2019.

Diane Schwartz Jones, Administrator to the County Council

Amendment 1 to Council Bill No. 61-2019

BY: The Chairperson at the request
of the County Executive

Legislative Day 14
Date: December 2, 2019

Amendment No. 1

(This amendment clarifies when economic conditions impact alternative compliance requests.)

- 1 On page 1, in line 19, strike “, OTHER THAN ECONOMIC,”.
- 2
- 3 On page 1, in line 21, after “AND” insert “FOR REQUESTS TO WAIVE OR ALTER THE REQUIREMENTS
- 4 IN ARTICLE II AND ARTICLE III OF THIS SUBTITLE”.
- 5
- 6 On page 1, in line 26, after “DIFFICULTY” insert “, OTHER THAN ECONOMIC,”.
- 7
- 8 On page 3, in lines 3 through 4, place brackets around “Waivers granted to extend time limits for
- 9 plan processing will remain valid for the time duration specified.”.

ADOPTED December 2, 2019
FAILED _____
SIGNATURE Diane J. Jones

Amendment 2 to Council Bill No. 61 - 2019

BY: David Yungmann

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 2

(This amendment proposes to add the word "unreasonably" to detrimental.)

On page 2, in line 1, after "NOT". insert "UNREASONABLY".

ADOPTED _____

FAILED December 2, 2019 Am. 2 as modified by Am. 1 fails

SIGNATURE Quane A. Jones

Amendment 1 to Amendment 2 to Council Bill No. 61 - 2019

BY: Opel Jones

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 1 to Amendment 2

(This amendment removes the prefix "un" from the word unreasonably.)

On page 1, in line 12, strike "*unreasonably*" and substitute "*reasonably*".

On page 1, in line 15, strike "*unreasonably*" and substitute "*reasonably*".

ADOPTED December 2, 2019

FAILED

SIGNATURE

Opel Jones

Amendment 3 to Council Bill No. 61 - 2019

BY: Liz Walsh

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 3

(This amendment proposes to remove the consideration of man-made slopes.)

On page 4, in lines 24 and 25, strike the brackets.

On page 4, in line 27, strike the brackets, semi-colon, and "AND".

On page 4, strike lines 28 – 29, in their entirety.

ADOPTED December 2, 2019
FAILED _____
SIGNATURE Diannet Jones

Amendment 4 to Council Bill No. 61 - 2019

BY: Liz Walsh

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 4

(This amendment proposes to require that the "Waiver Panel" review public projects and DPW recuse itself from Capital projects.)

On page 6, in line 13, strike "FOR PRIVATE DEVELOPMENT PROJECTS, THE" and substitute "THE".

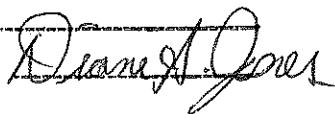
On page 7, after line 5, insert the following:

"(3) THE DEPARTMENT OF PUBLIC WORKS SHALL RECUSE ITSELF FROM CONSIDERATION OF ANY CAPITAL PROJECTS SEEKING WAIVERS".

ADOPTED December 2, 2019

FAILED

SIGNATURE



Amendment 5 to Council Bill No. 61 - 2019

BY: David Yungmann

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 5

(This amendment proposes to require that the "Waiver Panel" review public projects also.)

On page 6, in line 13, strike "FOR PRIVATE DEVELOPMENT PROJECTS, THE" and substitute "THE".

ADJUTANT GENERAL
FAILED December 2, 2019
SIGNATURE *David A. Yungmann*

Amendment 6 to Council Bill No. 61 - 2019

BY: David Yungmann

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 6

(This amendment proposes to exclude development projects which are being developed using the provisions of a DRRA.)

On page 9, immediately following line 8, insert the following:

“Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that the provisions enacted by this Act shall not apply to any project being developed pursuant to a Development Rights and Responsibilities Agreement entered into prior to the effective date of this Act.”.

On page 9, in line 9, strike “2” and substitute “3”.

ADOPTED _____
FAILED December 2, 2019
SIGNATURE Wanda J. Jones

Introduced Nov. 4, 2019
Public Hearing Nov. 18, 2019
Council Action Dec. 2, 2019
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2019 Legislative Session

Legislative Day No. 13

Bill No. 61 -2019

Introduced by: The Chairperson at the request of the County Executive

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Introduced and read first time November 4, 2019. Ordered posted and hearing scheduled.

By order Diane A. Jones
Diane Schwartz Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on November 18, 2019.

By order Diane A. Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on December 2, 2019 and Passed , Passed with amendments Failed .

By order Diane A. Jones
Diane Schwartz Jones, Administrator

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

By order _____
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive _____, 2019

Calvin Ball, County Executive

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6 *Section 16.104. Waivers.*

7 *Section 16.116. Protection of wetlands, streams, and steep slopes*

8 *Sec. 16.134. Sidewalks and walkways.*

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11 **Subtitle 1. Subdivision and Land Development Regulations.**

12 **Article I. General.**

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14 **Section 16.104. –Waivers.**

15 (a) *Authority to Grant.*

16 (1) So that substantial justice may be done and the public interest secured, the Department of
17 Planning and Zoning may grant waivers of the requirements of this subtitle, except as
18 prohibited in subsection (d), in situations where the Department finds that [[extraordinary
19 hardships]]UNREASONABLE HARDSHIP, OTHER THAN ECONOMIC, or practical difficulties
20 may result from strict compliance with this subtitle [[or determines that the purposes of
21 this subtitle may be served to a greater extent by an alternative proposal]] AND ALL OF
22 THE FOLLOWING CRITERIA ARE MET:

23 (I) STRICT CONFORMANCE WITH THE REQUIREMENTS WILL DEPRIVE THE APPLICANT OF
24 RIGHTS COMMONLY ENJOYED BY OTHERS IN SIMILAR AREAS;

25 (II) THE UNIQUENESS OF THE PROPERTY OR TOPOGRAPHICAL CONDITIONS WOULD RESULT IN
26 PRACTICAL DIFFICULTY OR UNREASONABLE HARDSHIP FROM STRICT ADHERENCE TO
27 THE REGULATIONS;

28 (III) THE VARIANCE WILL NOT CONFER ON THE APPLICANT A SPECIAL PRIVILEGE THAT
29 WOULD BE DENIED TO OTHER APPLICANTS AND;

1 (IV) THE MODIFICATION IS NOT DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY OR WELFARE
2 OR INJURIOUS TO OTHER PROPERTIES.

3 (2) WAIVERS MAY BE GRANTED WITHOUT MEETING THE CRITERIA OF SUBSECTION (A) IF THE
4 WAIVER:

5 (I) IS NECESSARY FOR THE RECONSTRUCTION OF EXISTING STRUCTURES OR INFRASTRUCTURE
6 DAMAGED BY FLOOD, FIRE, OR OTHER DISASTER;

7 (II) IS NECESSARY FOR THE CONSTRUCTION OF A STORMWATER MANAGEMENT OR FLOOD
8 CONTROL FACILITY AS PART OF A CAPITAL PROJECT; OR

9 (II) IS NECESSARY FOR THE RETROFIT OF EXISTING FACILITIES OR INSTALLATION OF NEW
10 FACILITIES INTENDED SOLELY TO IMPROVE STORMWATER MANAGEMENT OR FLOOD
11 CONTROL FOR EXISTING DEVELOPMENT.

12 (b) *Conditions Under Which Waiver May Be Granted.* The Department of Planning and Zoning
13 may approve a waiver to a provision of this subtitle provided that:

14 (1) The developer has presented a petition demonstrating the desirability of waiver; if the
15 County requests additional justifying information, the information must be submitted
16 within 45 days of the Department's letter of request. If the information is not submitted by
17 the deadline, the Department shall deny the petition.

18 (2) The waiver shall not have the effect of nullifying the intent and purpose of this subtitle.

19 (3) Within 30 days of the date of the Department's decision letter regarding a waiver petition,
20 the developer may submit additional information to support a request for the Department
21 to:

22 (i) Modify any approval conditions;

23 (ii) Reverse the Department's denial; or

24 (iii) Add or delete specific waiver requests.

25 (4) After 30 days, requests for reconsideration will require a new petition for a waiver and
26 payment of fees in accordance with the adopted fee schedule.

27 (5) Any waiver to the minimum requirements of this subtitle in regard to a particular
28 subdivision or development shall be appropriately noted on the final plat or site plan.

29 (c) *Period of Validity.* The waiver petition, if approved, will remain valid for 12 months from the
30 date of approval or as long as a subdivision or site development plan is being actively processed

1 in accordance with the processing provisions of section 16.144 of this subtitle. Subdivisions or site
2 developments which fail to meet the processing requirements will be required to submit a new
3 waiver request. Waivers granted to extend time limits for plan processing will remain valid for the
4 time duration specified.

5 (d) *No Waivers of Floodplain, Wetland, Stream, or Steep Slope Regulations in the Tiber Branch*
6 *Watershed.* The Department may not grant waivers of any requirement of section 16.115 or section
7 16.116 of this title for any property located in the Tiber Branch Watershed unless the waiver:

- 8 (1) Was requested on or before November 7, 2016;
- 9 (2) Is necessary for the reconstruction of existing structures or infrastructure damaged by
10 flood, fire, or other disaster;
- 11 (3) Is necessary for the construction of a stormwater management or flood control facility as
12 part of a redevelopment project;
- 13 (4) Is necessary for the retrofit of existing facilities or installation of new facilities intended
14 solely to improve stormwater management or flood control for existing development;
- 15 (5) Is requested as part of a development proposal and the Director of the Department of Public
16 Works, or his designee serving as Floodplain Administrator, finds that upon completion of
17 construction of the development, which may include off-site improvements within the
18 Tiber Branch Watershed, there will be improvement to flood control in the Tiber Branch
19 Watershed at least ten percent more than what would otherwise be required by law; or
- 20 (6) Is necessary for the construction of an addition, garage, driveway or other accessory use
21 improvement of an existing residential structure on property located within the Tiber
22 Branch Watershed that increases the square footage of the impervious surfaces on the
23 property by no more than 25 percent over the square footage of impervious surfaces that
24 existed on the property prior to the effective date of this bill [Dec. 9, 2016].

25
26 **Title 16. Planning, Zoning, and Subdivisions and Land Development Regulations.**

27 **Subtitle 1. Subdivision and Land Development Regulations.**

28 **Article II. Design Standards and Requirements.**

29
30 **Section 16.116. - Protection of wetlands, streams, and steep slopes.**

1 (a) *Streams and Wetlands:*

2 (1) Grading, removal of vegetative cover and trees, paving, and new structures shall not be
3 permitted within 25 feet of a wetland in any zoning district.

4 (2) Grading, removal of vegetative cover and trees, paving, and new structures shall not be
5 permitted within:

6 (i) Fifty feet of an intermittent stream bank;

7 (ii) Seventy-five feet of a perennial stream bank for Use I streams as classified by the
8 Maryland Department of the Environment in residential zoning districts and residential
9 and open space land uses in the NT, PGCC, and MXD districts;

10 (iii) One hundred feet of a perennial stream bank for Use III and IV streams; and

11 (iv) Fifty feet of a perennial stream bank in nonresidential zoning districts.

12 (3) In residential subdivisions, wetlands, streams, and their buffers shall be located in required
13 open space or a nonbuildable preservation parcel rather than on residential lots except as
14 permitted by section 16.120 of this subtitle.

15 (4) Wetlands and the required buffers for wetland and streams shall be delineated on final plats
16 and site development plans with a clear notation of use restrictions. WETLAND LIMITS
17 SHALL BE IDENTIFIED WITH SURVEYED BEARINGS AND DISTANCES. Wetlands need not be
18 delineated for agricultural preservation subdivisions or rural cluster subdivisions if a
19 qualified professional certifies that wetlands and buffers will not be impacted by the
20 proposed lots or potential development.

21 (b) *Steep Slopes.* Steep slopes are slopes that average 25 percent or greater over ten vertical feet.

22 (1) Grading, removal of vegetative cover and trees, new structures, and paving shall not be
23 permitted on land with existing steep slopes, except when:

24 (i) The on-site and off-site contiguous area of steep slopes is less than 20,000 square feet[
25 and]]

26 (ii) There is sufficient area, a minimum ten feet, outside of stream and wetland buffers for
27 required sediment and erosion control measures[.]; AND

28 (iii) THE EXISTING STEEP SLOPES ARE MAN-MADE ESTABLISHED BY THE PRIOR DEVELOPMENT
29 OF THE PROPERTY

1 (2) In residential subdivisions steep slopes existing at the time of subdivision shall be located
2 in required open space or a nonbuildable preservation parcel, except as permitted by
3 section 16.120 of this subtitle.

4 (c) *Necessary Disturbance:*

5 (1) Grading, removal of vegetative cover and trees, and paving are not permitted in wetlands,
6 streams, wetland buffers, stream buffers or steep slopes unless the Department of Planning
7 and Zoning, IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC WORKS AND OFFICE OF
8 COMMUNITY SUSTAINABILITY, determines based on a detailed justification provided by the
9 developer that:

10 (i) It is necessary for construction of public or private roads, driveways, utilities, trails,
11 pathways, or stormwater management facilities which are essential for reasonable
12 development of the property;

13 (ii) The design minimizes disturbance;

14 (iii) There is no other reasonable alternative; and

15 (iv) The cost of an alternative improvement shall not be a factor in deciding whether the
16 criteria in subject subsection (i) above can be met.

17 (2) Reasonable development, for the purpose of this subsection, does not guarantee maximum
18 possible development under the zoning regulations for density receiving subdivisions in
19 the RC and RR zoning districts. In any zoning district, achieving the maximum possible
20 density is not sufficient justification alone to allow disturbance.

21 (3) If permitted, the grading, removal of vegetative cover and trees, or construction shall only
22 be to the extent required to accommodate the necessary improvements. In these cases, the
23 Department of Planning and Zoning shall require the least damaging designs, such as
24 bridges, bottomless culverts or retaining walls, as well as environmental remediation,
25 including the planting of the areas where grading or removal of vegetative cover or trees
26 has taken place utilizing best practices for ecological restoration and water quality
27 enhancement projects.

28 (4) An applicant shall request permission from the Department of Planning and Zoning for a
29 necessary disturbance exception in writing for the grading, removal of vegetative cover
30 and trees, or paving as described in subsection (c) of this section.

1 (5) The Department of Planning and Zoning shall make available to the County Council and
2 the public on the Department's webpage a monthly report that includes the following
3 information for each application for a necessary disturbance exception:

- 4 (i) The name of the applicant;
- 5 (ii) The date of the application;
- 6 (iii) Project name;
- 7 (iv) Project type;
- 8 (v) A description of the project;
- 9 (vi) The action of the Department to deny the application, approve the application, or advise
10 the applicant to seek alternative compliance; and
- 11 (vii) If approved, include in the report the applicant's mitigation requirement.

12 (D) *WAIVERS.*

13 (1) FOR PRIVATE DEVELOPMENT PROJECTS, THE DIRECTOR OF THE DEPARTMENT OF PLANNING
14 AND ZONING, THE ADMINISTRATOR OF THE OFFICE OF COMMUNITY SUSTAINABILITY AND
15 THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS MAY GRANT WAIVERS WHICH
16 ALLOW FOR ALTERNATIVE COMPLIANCE TO THIS SECTION IF THE APPLICANT CAN
17 DEMONSTRATE IN SUFFICIENT DETAIL THROUGH EVIDENCE THAT THE PROJECT MEETS THE
18 CRITERIA SET FORTH IN SECTION 16.104 AND THE FOLLOWING ADDITIONAL CRITERIA:

- 19 (I) ANY AREA OF DISTURBANCE IS RETURNED TO ITS NATURAL CONDITION TO THE
20 GREATEST EXTENT POSSIBLE;
- 21 (II) MITIGATION IS PROVIDED TO MINIMIZE ADVERSE IMPACTS TO WATER QUALITY AND
22 FISH, WILDLIFE, AND VEGETATIVE HABITAT; AND
- 23 (III) GRADING, REMOVAL OF VEGETATIVE COVER AND TREES, OR CONSTRUCTION SHALL
24 ONLY BE THE MINIMUM NECESSARY TO AFFORD RELIEF AND TO THE EXTENT REQUIRED
25 TO ACCOMMODATE THE NECESSARY IMPROVEMENTS. IN THESE CASES, THE LEAST
26 DAMAGING DESIGNS SHALL BE REQUIRED, SUCH AS BRIDGES, BOTTOMLESS CULVERTS
27 OR RETAINING WALLS, AS WELL AS ENVIRONMENTAL REMEDIATION, INCLUDING THE
28 PLANTING OF THE AREAS WHERE GRADING OR REMOVAL OF VEGETATIVE COVER OR
29 TREES HAS TAKEN PLACE, UTILIZING BEST PRACTICES FOR ECOLOGICAL RESTORATION
30 AND WATER QUALITY ENHANCEMENT PROJECTS.

1 (2) TO DETERMINE IF THE WAIVER IS WARRANTED, THE DEPARTMENTS MAY REQUEST AN
2 ALTERNATIVES ANALYSIS, THAT MAY INCLUDE DIFFERENT PLAN CONCEPTS AND THAT
3 CLEARLY DEMONSTRATES THAT NO OTHER FEASIBLE ALTERNATIVE EXISTS AND THAT
4 MINIMAL IMPACTS WILL OCCUR AS A RESULT OF GRANTING THE MODIFICATION.
5

6 **TITLE 16. PLANNING, ZONING, AND SUBDIVISIONS AND LAND**
7 **DEVELOPMENT REGULATIONS.**

8 **SUBTITLE 1. SUBDIVISION AND LAND DEVELOPMENT REGULATIONS.**

9 **ARTICLE III. REQUIRED IMPROVEMENTS.**

10
11 **Section 16.134. Sidewalks and walkways.**

12 (a) *Sidewalks Required.* The developer shall provide for the construction of sidewalks pursuant to
13 this section and the Design Manual.

14 (1) *Residential development.* In residential subdivisions and site developments the developer
15 shall construct sidewalks on both sides of all streets in the project and along the project
16 frontage except that:

17 (i) Sidewalks are required on only one side of cul-de-sacs and local streets of single-family
18 detached subdivisions.

19 (ii) No sidewalks are required on cul-de-sacs or private streets of any development with
20 ten or fewer dwelling units except along the portion of the development that fronts on
21 a County or State road. For minor subdivisions, if a developer chooses not to construct
22 sidewalks along the portion of the development that fronts on a County or State road,
23 the developer shall pay a fee-in-lieu of sidewalk construction. The fee-in-lieu shall be
24 based on the unit prices for the cost to construct the sidewalk, including the associated
25 curb and gutter, and shall be spent on sidewalks in the same general plan planning area
26 as the development.

27 The Department of Planning and Zoning may accept a fee-in lieu from developers for
28 developments of five to ten dwelling units located on local roads if there are:

- 29 1. No existing adjacent sidewalks; or
30 2. No institutional, school, public or retail facilities, within 1,000 feet

1 Any residential sidewalk requirement that was satisfied by paying a fee-in-lieu may
2 be subsequently constructed by the County through the capital budget process.

3 (iii) No sidewalks are required in the RC or RR zoning district.

4 (iv) Sidewalks on State roads may not be required if the State Highway Administration
5 determines that sidewalks are not appropriate in a specific location.

6 (2) *Nonresidential developments.* In nonresidential subdivisions and site developments the
7 developer shall construct sidewalks on one or both sides of the street, if the Department of
8 Planning and Zoning deems it necessary to serve anticipated internal pedestrian traffic, to
9 provide access to transit stops, or to make connections to surrounding land uses.

10 (b) *No Sidewalks Required.* APPROVAL BY THE [[The]] Department of Planning and Zoning AND
11 OFFICE OF TRANSPORTATION IS REQUIRED TO [[may]] eliminate all or part of the sidewalk
12 requirement where:

13 (1) One side of a street adjoins a landscaped parking island, park, golf course or other type of
14 use which does not require a sidewalk and where continuity is not essential.

15 (2) Adjacent development (recorded plat) has been substantially completed without sidewalks,
16 pursuant to prior approvals, and there is no need for sidewalks to serve commercial or
17 institutional uses, schools, parks, or other public facilities, or make connections to nearby
18 streets or transit service.

19 (3) Sidewalks would be detrimental to the character of a scenic road and are not needed to
20 serve school, shopping or active recreation areas.

21 (4) Sidewalks on State roads may not be required if the State Highway Administration
22 determines that sidewalks are not appropriate in a specific location.

23 (c) *Sidewalks beyond Subdivision.* At the County's sole option, a developer may be required to
24 extend the sidewalk construction up to 250 feet beyond the proposed development to the nearest
25 public sidewalk or pathway or pay the cost of such construction if:

26 (1) The continuation of the sidewalk is necessary to provide safe pedestrian travel or to
27 complete a sidewalk or pathway system;

28 (2) The Director of Planning and Zoning has determined that the nearest public sidewalk or
29 pathway is in close proximity to the proposed subdivision; and

30 (3) The necessary rights-of-way exist or have been acquired by the developer or the County.

1 (d) *Walkways:*

2 (1) *Residential development.* If the Department of Planning and Zoning determines that
3 construction of sidewalks is infeasible or insufficient, an on-site pedestrian walkway to
4 provide access to commercial or institutional uses, schools, or other public facilities such
5 as parks, nearby streets or connections to transit service may be required.

6 (2) *Nonresidential development.* The design of site development plans for nonresidential
7 development shall incorporate on-site pedestrian circulation.

8
9 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***
10 ***this Act shall become effective 61 days after its enactment.***

Sayers, Margery

From: Kimberly Kepnes <kimberly.kepnes@monumentsofthebysrealty.com>
Sent: Monday, November 25, 2019 12:16 PM
To: Walsh, Elizabeth; CouncilMail
Subject: Written Testimony for CB-61 and Related Legislation
Attachments: CB61 Testimony Kepnes.pdf

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

Dear Liz,

Thank you for your advocacy in District 1 and the assistance provided Historic Ellicott City residents and business owners through the recovery process and with associated legislation before the Howard County Council.

As you know, I am concerned by council bills which may, as an intended or unintended consequence, negatively impact, burden, limit or restrict individual businesses and property owners from being able to make improvements to their property and/or to change a use permitted by right under current zoning regulations.

As it stands, an individual business or property owner is not permitted to change the primary use of their property from one permitted use to another permitted use without the approval of the Department of Planning and Zoning (DPZ). This includes changes to residential and commercial uses which are already and presently permitted as a matter of right under the current zoning regulations. For example, a business owner who would like to change his or her business use from office to retail or restaurant to retail or office to apartment must follow the same application process as developers who are subdividing land for the purposes of building more housing.

I provided written testimony previously under CB-38 detailing the Office of Planning and Zoning definition of "development" as "The establishment of a principal use on a site, a change in a principal use of a site or the improvement or alteration of a site by construction..." Under this definition, business and property owners are treated as developers impacting a site even when there is no new construction, no alteration of grading and/or, quite possibly, no changes to the interior of the building.

I believe there were proposed amendments to CB-38 which addressed, to some degree, the distinction between a developer seeking to subdivide or make alterations to a site, including new construction applications where there is grading on the site, and an individual or individuals seeking only an interior building permit or a change to a use of the property already permitted as a matter of right under the zoning regulations.

Please give a voice to these individual business and property owners in your consideration and deliberation of council bills, including the current CB-61, to redefine "development" and provide specific exception to individual business and property owners who are applying for interior building permits only and/or are seeking building use changes which are already permitted as a matter of right under the current zoning regulations. These business and property owners should not be required to submit a Site Development Plan or Alternative Compliance Application as developers seeking the "...improvement or alteration of a site by construction".

Your interest to protect and promote individual business and property owners' rights from being the targets of legislation and the unintended bureaucratic consequences which follow is greatly needed and appreciated by residents, business and property owners, alike.

Respectfully,

Kimberly

Kimberly Kepnes
District 1 resident, business and property owner
3585 Church Road
Ellicott City, MD 21043

443-250-4241

What it means to be Sotheby's

Agents of the Exceptional

Kimberly Kepnes,
Regional Vice President, Development
Monument Sotheby's International Realty
Headquartered at the Ritz Carlton
410.525.5435 office
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INTERNATIONAL REALTY

KIMBERLY *K!*

November 25, 2019

Elizabeth Walsh
Howard County Council

Via Email: ewalsh@howardcountymd.gov; councilmail@howardcountymd.gov

Reference: Council Bill 61-2019

Dear Liz,

Thank you for your advocacy in District 1 and the assistance provided Historic Ellicott City residents and business owners through the recovery process and with associated legislation before the Howard County Council.

As you know, I am concerned by council bills which may, as an intended or unintended consequence, negatively impact, burden, limit or restrict individual businesses and property owners from being able to make improvements to their property and/or to change a use permitted by right under current zoning regulations.

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Your interest to protect and promote individual business and property owners' rights from being the targets of legislation and the unintended bureaucratic consequences which follow is greatly needed and appreciated by residents, business and property owners, alike.

Respectfully,



Kimberly Kepnes
District 1 resident, business and property owner
3585 Church Road
Ellicott City, MD 21043
443-250-4241

CB61

Sayers, Margery

From: Steve Breeden <sbreeden@sdcgroupp.com>
Sent: Wednesday, November 20, 2019 10:09 AM
To: CouncilMail
Subject: CB 61 and 62 -2019
Attachments: Forest Con and Waiver Testamony November 18th.docx

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

Dear Council,

I was too late signing up, so want you to have my written testimony on the Forest and Waiver Bills, as attached.

Thank you for reading this, if you do.

Steve

Steven K. Breeden
587 Gaither Road
Sykesville, MD 21784

November 18th, 2019

Council Members.

I am Steve Breeden. I have lived in the county my whole life and worked here for almost 40 years, doing what used to be a respected job, of providing homes for future residents.

I believe the administration bills need some work. I will give you a few details, but want you to see what I think is the big picture in the county right now.

A couple weeks ago you increased the school excise tax by 568%, from \$1.32 psf to \$7.50 psf, plus cpi. A large home in the west could easily cost \$100,000 in permit fees, before a shovel gets in the ground. The idea was to raise \$205mm over the next 10 years to pay for someone's estimate of the amount that the school board would need to cover the shortfall in its capital needs. The problem is that if homes are not allowed to be built, the county will not see this money. You may raise some for the projects already in the pipeline, but new projects are already stopped due to the number of schools that already are, and will continue to be closed since July 1st, when the moratorium took effect. Even then, I am not sure if the market can bear this additional cost, which makes all new non-senior market rate

homes much less affordable for everyone. Only 27 percent of families have children in the schools, but if we think school construction is the priority, then all residents should pay more, not just the people not yet here.

Bills such as CB 61 and CB 62 only exacerbate this problem, by further stifling a builder's ability to make a project work under the laws currently in place. I understand that the laws need to follow the state guide lines, but do not understand why they need to be much more severe in Howard County than the state and other counties?

Why does a forest need to be 50 feet wide to be a forest, even if it were adjacent to another forest? Why are we protecting steep slopes when they may be erodible and of no value, except they happen to be steep? Why are we protecting large trees that are in many cases, already dead? By protecting them, other issues are created such as poor layouts and future drainage problems, for the county to hear about forever. When homeowners ask why we do some of the things we do, which we know don't make sense, the only response we can give is, the county made us do this to comply with the laws, whether they make sense or not.

Why do we need to go above and beyond the state laws for reforestation? Trees are wonderful, and even developers love them, but they need to be in the right place. What's nice about

trees, is that we plant them (really relocate and increase their numbers) and they grow in places that are better for them and us. Just fly over what used to be all farmland, what is now Columbia, and try to find a house?

Why are we setting back from the property lines for forests? Why do we need to keep 75% of the trees on site? Why can't we pay a fee in lieu for more than 1 acre when we can't find places on site to plant them? At the proposed \$54,450 per acre, the county should be able to put together large forest tracts, which make sense.

Currently we have a 2 year growing season requirement to prove that the trees are growing. We plant at 3 to 1 and need to keep an 85% survival rate. After the first inspection, we go back and replant back to 100%, the trees that did not make it through the first year. Rather than add a third year to the inspection period, why don't we get released from the expensive bonds, and post a maintenance bond, like we do for roads, until we get through the 3rd growing season?

As for Bill 61, how can you say that Economics can't be considered a factor of UNREASONABLE HARDSHIP? There are always tradeoffs, and the developers need to prove to the county what makes sense, but to ignore economics is unreasonable. We don't mind making our case for why we are doing things, like we have had to do for many years. What you

may not realize is that we do this before ever asking for waivers from DPZ, which is why they get approved. THEY HAVE ALREADY BEEN NEGOTIATED!

We already have a review panel, call the Subdivision Review Group that weighs in on what, if any, alternative compliance is granted. Why does the county need to waste more time on what will turn out to be the Director of Planning and Zoning, Director of Public Works, and the Administrator of the Office of Sustainability trying to make these decisions? And who gets to decide? I guess these will eventually wind their way up to top county leadership for every request. Do we really want this? And why do we exempt all but private development projects? The environment doesn't know the difference.

I know it is fun to bash development these days, but none of us live in tents, and we need to be reasonable about the kinds of things we are legislating. If the wrong people are interpreting the rules, the county can and will shut down, and then how will we pay for the schools?

Thanks for listening.

Steve

Sayers, Margery

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

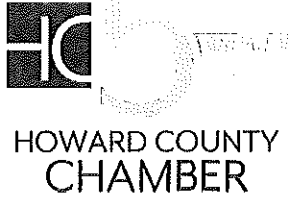
[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Council members:

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

Thanks

Leonardo McClarty



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

I'm Leila Mahlin of Columbia and support CB 61 and have some suggestions to ensure that as written the legislation will meet the goals of the compliance update announcement at Savage Park.

{Page 5 Line 7}

For certain waivers DPZ consultation with the Office of Community Sustainability and the DPW is required. Will these additional two departments have veto power over certain waivers? Consultations and responses should be documented in writing so there is an audit trail related to each waiver decision. Also, please consider requiring unanimous consent of all three departments for a waiver.

{Page 6 Line 13}

For some sections of wetlands, streams, and steep slopes in private development projects the DPZ Director, the Administrator Of The Office Of Community Sustainability **AND** the DPW Director grant waivers. As written, any of the three department heads could grant a waiver, instead of just the DPZ Director as currently allowed. The more stringent standard of all three department heads unanimously supporting each waiver is appropriate, {rather than all three discretely which is lower than the current standard}

In this bill the Director of the Department of Public Works is included as a third party in waiver decisions, but in CB62-2019 {on Page 22 Lines 29-32} the Department of Recreation and Parks is the third party. Is that what is intended and if so, why? How do these different components relate to each other?

{Page 2 Lines 1-2} The inclusion of {the fourth criteria} "THE MODIFICATION IS NOT DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY OR WELFARE OR INJURIOUS TO OTHER PROPERTIES" appears to strengthen the rights of communities. Unfortunately it often falls on the community to note detriments, but in implementation it remains very challenging for a community to organize and stand up for itself. How is 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? Consider lower wealth index communities. One estimate for a study of this type for a 5 acre property was over 50 thousand dollars. What is needed is a "Watch Way" which charts the Compact Environmental areas such as Urban Canopy, forests, streams, rivers, steep slopes and their interconnection to the Green Infrastructure Network. Citizens could report issues such as flooding which the County could then validate. Such local data would better equip citizens, developers, and government officials to evaluate and present the potential impact of any proposed development. Please take these issues into consideration.



HCCA

Howard County Citizens Association

Since 1961... The Voice of the People of Howard County

County Council Public Hearing November 18, 2019

Testimony – CB61-2019 Support with amendment requests

Lisa Markovitz, President, The Peoples Voice, Vice-President, The Howard County Citizens Association , speaking for both entities.

Our groups have followed the Forest Conservation and related legislation this past month and greatly appreciate the strengthening of these rules to improve reforestation and lessen deforestation. In CB62, the stricter enforcement of variances for Forest Con is commendable and we ask that the bar be set at the higher degree of “unwarranted hardship” be made with waivers in CB61 regarding protection of wetlands, streams and steep slopes also be chosen.

The language in CB61 where projects have to show “unreasonable hardship OR practical difficulty” could be strengthened to match the language required for variances in CB62, of unwarranted hardship ONLY and thus protect these vulnerable areas even more.

Also, please note on page 4, that the requirements regarding steep slopes, protecting too much grading and removal of cover, exempts slopes that are “man-made established by prior development”. We ask that an age limit be placed here so that very old man-made steep slopes also be protected, as when they have existed for some time, over 5 or 10 years, then the detriment to clearing them is similar to clearing natural ones.

Again, thank you to the Administration and County staff for putting forth legislation that will provide further protections, and oversight of DPW, DPZ and the Office of Community Sustainability jointly to allow waivers. There needs to be a safety net of defining what occurs if this mutual decision cannot be agreed upon by those three parties. Please make it clear, that in a case of discord, in a certain amount of time, that the default is denial of the waiver and not an automatic granting instead.

Thank you.



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Lisa Markovitz, have been duly authorized by
(name of individual)

Howard County Citizens Assn (HCCA) to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CR 101-2019 to express the organization's
(bill or resolution number)

request to amend this legislation.
(Please circle one.)

Printed Name: Lisa Markovitz

Signature: [Handwritten Signature]

Date: _____

Organization: Howard County Citizens Assn (HCCA)

Organization Address: P.O. Box 89

Elizottown MD 21041

Number of Members: 500

Name of Chair/President: Stu Kohn, President

This form can be submitted electronically via email to councilmccl@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

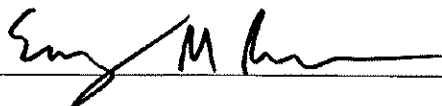
I, Emily Ranson, have been duly authorized by
(name of individual)

Clean Water Action to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB61-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Emily Ranson

Signature: 

Date: 11/18/19

Organization: Clean Water Action

Organization Address: 1120 N Charles Street, Suite 415 Baltimore, MD 21201

Number of Members: 7000

Name of Chair/President: Bob Wendelgass

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.



CLEAN WATER ACTION

MARYLAND

November 18, 2019

CB61-2019: Criteria for Granting Waivers

Position: Favorable

Dear Council Chair Mercer-Rigby and Members of the Council,

Clean Water Action is a water-oriented advocacy group with 7,000 members in Howard County, and 45,000 in the state of Maryland. Clean Water Action supports policies that protect and improve water quality in Maryland and throughout the country.

Clean Water Action supports CB61-2019 to adjust the criteria for granting waivers from the requirements of the Howard County Subdivision and Land Development Regulations.

It is common practice to include waivers and variances in environmental policies and regulations in order to allow for flexibility and unforeseen circumstances. However, when waivers are granted too readily or for convenience's sake, they completely undermine carefully crafted policy. The idea behind allowing flexibility is to not exempt developments from environmental protections, but to give some wiggle room while continuing to protect sensitive environmental features to the best extent possible.

Waivers should be granted in ways to *minimize adverse impacts*. Waivers should be as limited as possible in order to address what makes compliance impossible. Waivers should be unusual, not standard practice.

Accountability needs to be front and center on waivers, and making sure that these waivers are reviewed by departments that have missions to protect green spaces, the environment, or a connected network is important.

We especially appreciate the inclusion of sidewalk waivers in CB61-2019 and the mandate that the Office of Transportation approve these waivers. The cheapest time to install sidewalks is when a new development is built. Unfortunately, Howard County continues to grant sidewalk waivers when surrounding developments do not have sidewalks. This continues to build the county into car-dependence and neighborhoods where it is unsafe to walk for exercise and recreation. If infill developments included sidewalks, then the opportunity would not be lost and one day we could have a connected, walkable, safe Howard County.

Waivers are a tool, but they need to be used with great care in order to safeguard the environmental protections put into place by previous legislation.

Signed,

Emily Ranson
Maryland Program Coordinator
Clean Water Action
eranson@cleanwater.org
443-562-2832



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

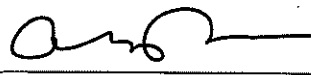
I, Angelica Bailey, have been duly authorized by
(name of individual)

Maryland Building Industry Association to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB61-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Angelica Bailey

Signature: 

Date: November 18, 2019

Organization: Maryland Building Industry Association

Organization Address: 11825 West Market Place

Fulton, MD 20759

Number of Members: 1,000+

Name of Chair/President: Lori Graf, CEO

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, LISA MARKOWITZ, have been duly authorized by
(name of individual)

The Peoples Voice LLC to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB 61-2019 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Lisa Markowitz

Signature: [Handwritten Signature]

Date: _____

Organization: The Peoples Voice LLC

Organization Address: The Peoples Voice, LLC

3600 Saint Johns Lane Ste D Ellizott City MD 21042

Number of Members: 3486

Name of Chair/President: Lisa Markowitz President

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

CB61

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
CONTRACTS: GEORGE BEECHER PARK - 150222 MULTIPURPOSE NATIONAL PARK
610007 CITY, MARYLAND 21047
(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.

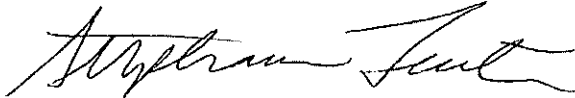
CB63

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: 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: 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 and Neal Vanderlipp
samlnbm@comcast.net nrv@xcal-sol.com

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 and Neal Vanderlipp
samlnbm@comcast.net 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. 17th public unveiling at Savage Park, was to update Howard County's Forest Conservation Act to bring it into "full compliance with State law".^{1,5} 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, 2019²

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 61-2019.³

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:⁴

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

¹ 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.

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


³ 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

⁴ 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 and Neal Vanderlipp nrv@xcal-sol.com

⁵ NOTE: 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.

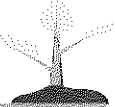
- Includes required on-site retention for champion and specimen trees.

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

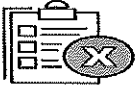
Maximum of 1 acre forest obligation can be met through fee-in-lieu in a residential development.

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.

Submitted by: Leila Mahlin
samlmbm@comcast.net

and Neal Vanderlipp
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

[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

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. 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,

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

Amendment 1 to Council Bill No. 61-2019

BY: The Chairperson at the request
of the County Executive

Legislative Day 14
Date: December 2, 2019

Amendment No. 1

(This amendment clarifies when economic conditions impact alternative compliance requests.)

- 1 On page 1, in line 19, strike “, OTHER THAN ECONOMIC,”.
- 2
- 3 On page 1, in line 21, after “AND” insert “FOR REQUESTS TO WAIVE OR ALTER THE REQUIREMENTS
- 4 IN ARTICLE II AND ARTICLE III OF THIS SUBTITLE”.
- 5
- 6 On page 1, in line 26, after “DIFFICULTY” insert “, OTHER THAN ECONOMIC,”.
- 7
- 8 On page 3, in lines 3 through 4, place brackets around “Waivers granted to extend time limits for
- 9 plan processing will remain valid for the time duration specified.”.

Amendment 2 to Council Bill No. 61 - 2019

BY: David Yungmann

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 2

(This amendment proposes to add the word "unreasonably" to detrimental.)

On page 2, in line 1, after "NOT", insert "UNREASONABLY".

Amendment 3 to Council Bill No. 61 - 2019

BY: Liz Walsh

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 3

(This amendment proposes to remove the consideration of man-made slopes.)

On page 4, in lines 24 and 25, strike the brackets.

On page 4, in line 27, strike the brackets, semi-colon, and "AND".

On page 4, strike lines 28 – 29, in their entirety.

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Amendment 4 to Council Bill No. 61 - 2019

BY: Liz Walsh

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 4

(This amendment proposes to require that the "Waiver Panel" review public projects and DPW recuse itself from Capital projects.)

On page 6, in line 13, strike "FOR PRIVATE DEVELOPMENT PROJECTS, THE" and substitute "THE".

On page 7, after line 5, insert the following:

"(3) THE DEPARTMENT OF PUBLIC WORKS SHALL RECUSE ITSELF FROM CONSIDERATION OF ANY CAPITAL PROJECTS SEEKING WAIVERS".

Amendment 5 to Council Bill No. 61 - 2019

BY: David Yungmann

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 5

(This amendment proposes to require that the "Waiver Panel" review public projects also.)

On page 6, in line 13, strike "FOR PRIVATE DEVELOPMENT PROJECTS, THE" and substitute "THE".

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Amendment 6 to Council Bill No. 61 - 2019

BY: David Yungmann

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 6

(This amendment proposes to exclude development projects which are being developed using the provisions of a DRRA.)

On page 9, immediately following line 8, insert the following:

“Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that the provisions enacted by this Act shall not apply to any project being developed pursuant to a Development Rights and Responsibilities Agreement entered into prior to the effective date of this Act.”.

On page 9, in line 9, strike “2” and substitute “3”.