

Introduced Nov. 4, 2019
Public hearing Nov. 18, 2019
Council action Dec. 2, 2019
Executive action Dec. 11, 2019
Effective date Feb 5, 2020

County Council of Howard County, Maryland

2019 Legislative Session

Legislative day # 13

Bill No. 63 - 2019

Introduced by: Liz Walsh, Deb Jung, and Christiana Mercer Rigby

AN ACT amending the Howard County Code by clarifying that new developments outside of the Planned Service Area must continue to maintain a certain buffer; altering the requirements for a certain buffer between a road and a new major subdivision that is located along a Scenic Road; altering a certain approval process for a major or minor subdivision that abuts or adjoins a scenic road; and generally relating to Scenic Roads.

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 10, 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 hereby amended as follows:**

3
4 *By Amending:*

- 5
- 6 *Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"*
- 7 *Subtitle 1. "Subdivisions and Land Development Regulations"*
- 8 *Article II. "Design Standards and Requirements"*
- 9 *Section 16.125. "Protection of Scenic Roads."*

10
11 **HOWARD COUNTY CODE**

12

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

14 **Subtitle 1. Subdivisions and Land Development Regulations**

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

16

17 **Section. 16.125. – Protection of Scenic Roads.**

18 (a) *Application of Regulations.* The Subdivision and Land Development Regulations, Zoning
19 Regulations, Forest Conservation ordinance and Landscape Manual shall be applied to
20 development along a scenic road in a manner which helps to preserve the scenic character of
21 the landscape viewed from these roads and the features of the road right-of-way that contribute
22 to the road's scenic character.

23 (b) *Guidelines for Development of Land Abutting a Scenic Road.* Because scenic landscapes
24 vary greatly, design solutions for development will vary. The following guidelines provide
25 direction for the development of land abutting a scenic road. They are to be applied as
26 appropriate, given the constraints of the particular site and the relative priority of other County
27 policies and requirements such as public safety, farmland preservation, forest conservation,
28 protection of sensitive environmental features and the need to construct public facilities.

29 (1) *General.*

30 (i) Use the cluster subdivision provisions of the zoning regulations to site buildings and
31 roads in locations that minimize the impact of the subdivision on views from the
32 scenic road. Generally structures and uses should be located away from the right-of-
33 way for scenic roads unless screened by topography or vegetation.

34 (ii) Minimize tree and vegetation removal. In addition to requirements for protection

1 of forests, steep slopes, streams and wetlands, emphasize the protection of vegetation
2 adjacent to the scenic road, as well as mature trees and hedgerows visible from the
3 road.

4 (iii) Minimize grading; retain existing slopes along the scenic road frontage.

5 (iv) Orient lots so that houses do not back up to a scenic road. If this cannot be avoided,
6 houses should be sited as far as possible from the road and well screened.

7 (v) Locate and design utilities, stormwater management facilities, drainage structures,
8 bridges, lighting, fences and walls to be unobtrusive and to harmonize with the
9 surroundings to maintain existing view corridors. Subdivision entrance features
10 should be low, open, and in keeping with the scenic character of the area in
11 accordance with section 128 of the zoning regulations.

12 (vi) Locate parking lots, loading areas and storage areas so that these uses are screened
13 from the scenic road.

14 (vii) Use vegetation commonly found on the site or in the area for landscaping.

15 (viii) For density receiving subdivisions in the RC and RR zoning districts, achieving
16 the maximum possible density is not sufficient justification to allow impacts on
17 scenic roads.

18 (2) ~~[[~~*Forested or wooded areas.* Any new developments OUTSIDE OF THE PLANNED SERVICE
19 AREA located along scenic roads must maintain at least a 35-foot buffer of existing forest
20 or wooded area between the road and the new development. The buffer shall be wide
21 enough to maintain the road's visual character with a minimum width of at least 35 feet
22 from the road right-of-way.~~]]~~

23 ~~*BUFFERS.* FOR NEW MAJOR SUBDIVISIONS, A MINIMUM 100-FOOT CONTINUOUS VEGETATED~~
24 ~~BUFFER, AS MEASURED FROM THE RIGHT-OF-WAY, SHALL BE MAINTAINED BETWEEN THE~~
25 ~~ROAD AND SUBDIVISION TO PRESERVE, MAINTAIN, OR ENHANCE THE VISUAL CHARACTER~~
26 ~~OF THE ROAD. THE BUFFER SHALL CLOSELY REFLECT THE NATURAL CHARACTER OF THE~~
27 ~~UNDEVELOPED LAND. ANY INVASIVE SPECIES SHALL BE REMOVED FROM THE BUFFER, AND~~
28 ~~THE BUFFER SHALL BE REPLANTED AND ENHANCED WITH NATIVE SPECIES OF THE SAME~~
29 ~~COMMUNITY TYPES, WHETHER FOREST, WETLANDS, FIELD, PASTURE, MEADOW,~~
30 ~~HEDGEROW, OR OTHERWISE.~~

1 (3) *Areas with open views.*

- 2 (i) Cluster development to retain as much as possible of the open character of the site
3 and to minimize interference with panoramic views from the road.
- 4 (ii) Where possible, site new buildings behind natural screening or cluster development
5 in or along the edges of forests, at the edges of fields and hedgerows, or near existing
6 buildings.
- 7 (iii) Preserve the foreground meadow, pasture or cropland and place development in
8 the background as viewed from the road.
- 9 (iv) Avoid placing structures on the tops of prominent ridges.
- 10 (v) If new construction cannot be made unobtrusive through siting or the use of natural
11 screening, use landscaping, including berms, to buffer development from the scenic
12 road.

13 (C) *APPROVALS.*

14 (1) FOR ANY MAJOR OR MINOR SUBDIVISION THAT ABUTS OR ADJOINS A SCENIC ROAD, AN
15 INITIAL PLAN SUBMITTAL MUST BE APPROVED BY THE PLANNING BOARD PRIOR TO
16 FINAL APPROVAL BY THE DEPARTMENT OF PLANNING AND ZONING. THIS PROVISION
17 SHALL NOT APPLY TO ANY DEVELOPMENT THAT IS OUTSIDE THE PLANNED SERVICE
18 AREA OR THAT IS SUBJECT TO THE CLARKSVILLE PIKE STREETScape PLAN AND DESIGN
19 GUIDELINES, THE DOWNTOWN-WIDE DESIGN GUIDELINES, OR THE DOWNTOWN
20 NEIGHBORHOOD DESIGN GUIDELINES FOR DOWNTOWN COLUMBIA REVITALIZATION.

21 (2) FOR NEW MAJOR SUBDIVISIONS INSIDE THE PLANNED SERVICE AREA, A MINIMUM
22 100-FOOT CONTINUOUS VEGETATED BUFFER, AS MEASURED FROM THE RIGHT-OF-
23 WAY, SHALL BE MAINTAINED BETWEEN THE ROAD AND SUBDIVISION TO PRESERVE
24 OR ENHANCE THE VISUAL CHARACTER OF THE ROAD.

25 ~~(2)~~ (3) THE PLANNING BOARD SHALL EVALUATE THE PROPOSED INITIAL PLAN SUBMITTAL
26 AT A PUBLIC MEETING AND CONSIDER A VISUAL ASSESSMENT OF THE AFFECTED SCENIC
27 ROAD.

28 ~~(3)~~ (4) THE INITIAL PLAN SUBMITTAL SHALL INCLUDE ALL INFORMATION REQUIRED BY THE
29 SUBDIVISION AND LAND DEVELOPMENT REGULATIONS OF THE HOWARD COUNTY
30 CODE, AND THE FOLLOWING:

1 (I) SITE ACCESS AND METHODS TO MINIMIZE BUFFER DISTURBANCE; HOWEVER, A
2 MULTI-USE PATHWAY NOT EXCEEDING 10 15 FEET IN WIDTH OF DISTURBANCE
3 MAY BE LOCATED WITHIN A VEGETATED BUFFER.;

4 (II) A CONCEPT LANDSCAPE AND GRADING PLAN FOR THE BUFFER; WHICH MAY INCLUDE
5 A MULTI-USE PATHWAY NOT EXCEEDING 10 15 FEET IN WIDTH OF DISTURBANCE
6 THAT MAY BE LOCATED WITHIN A VEGETATED BUFFER.; AND

7 (III) A VISUAL ASSESSMENT, INCLUDING POTENTIAL VIEWPOINTS OF THE DEVELOPMENT
8 TAKEN FROM THE SCENIC ROAD, INCLUDING:

- 9 A. PLANS AND AERIAL PHOTOGRAPHS SHOWING THE SUBJECT PROPERTY, ITS
10 CONTEXT, AND SURROUNDING LAND USES AND DEVELOPMENT CHARACTER,
11 INCLUDING THE SETBACKS AND LOT LAYOUTS OF THE SURROUNDING AREA;
- 12 B. PERSPECTIVE DRAWINGS, PHOTOGRAPHIC SIMULATIONS, CROSS SECTIONS
13 AND/OR ELEVATIONS SHOWING EXISTING CONDITIONS AND PROPOSED
14 CHANGES ASSOCIATED WITH THE PROPOSED DEVELOPMENT;
- 15 C. A SURVEY OF EXISTING VEGETATION SHOWING TREES 12 INCHES OR
16 GREATER IN CALIPER AND NON-NATIVE, INVASIVE SPECIES;
- 17 D. A DESCRIPTION SUMMARIZING THE CHARACTER AND QUALITY OF THE
18 SCENIC ROAD, AS VIEWED FROM THE ROAD, USING THE SCENIC ROADS
19 INVENTORY AS A GUIDE; AND
- 20 E. A DETAILED ASSESSMENT OF ANY PROPOSED VISUAL IMPACTS TO SCENIC OR
21 HISTORIC FEATURES AND PROPOSED MITIGATION MEASURES, INCLUDING AN
22 ASSESSMENT OF WHETHER THE PROPOSED CHANGES COMPLY WITH THE
23 GUIDELINES FOR DEVELOPMENT OF LAND ABUTTING A SCENIC ROAD IN
24 SUBSECTION (B) OF THIS SECTION.

25 (4) (5) THE PLANNING BOARD SHALL USE THE CRITERIA SPECIFIED IN THIS PARAGRAPH TO
26 EVALUATE THE INITIAL PLAN SUBMITTAL.

27 (I) ACCESS. THE PLANNING BOARD SHALL CONSIDER WHETHER THE PROPERTY HAS
28 FRONTAGE ON A NON-SCENIC ROAD, THE IMPACTS TO ENVIRONMENTAL FEATURES, AND
29 TRAFFIC SAFETY.

- 30 A. WHEREVER PRACTICABLE, ACCESS SHALL BE LOCATED ALONG A NON-SCENIC ROAD.
31 B. ONLY TO THE EXTENT VEHICULAR ACCESS CANNOT BE PRACTICABLY LOCATED
32 ALONG A NON-SCENIC ROAD, ACCESS ALONG A SCENIC ROAD SHALL BE PERMITTED

1 AT AN EXISTING DRIVEWAY LOCATION.

2 C. ONLY TO THE EXTENT VEHICULAR ACCESS CANNOT BE PRACTICABLY LOCATED
3 ALONG A NON-SCENIC ROAD OR AT AN EXISTING DRIVEWAY, ADDITIONAL ACCESS
4 ALONG A SCENIC ROAD MAY BE PERMITTED.

5 D. TO THE EXTENT THAT ANY ACCESS IS PERMITTED ALONG A SCENIC ROAD, SUCH
6 ACCESS SHALL ~~UTILIZE AND~~ PRESERVE THE ~~LOCATION,~~ ALIGNMENT, TOPOGRAPHY
7 AND SURROUNDINGS SO AS TO MINIMIZE INTERFERENCE WITH ~~PANORAMIC~~ VIEWS
8 FROM THE ROAD ~~FOR AT LEAST THE WIDTH OF THE REQUIRED BUFFER~~ WHILE
9 ENSURING PUBLIC SAFETY.

10 (ii) BUFFERS. THE PLANNING BOARD SHALL DETERMINE WHETHER THE BUFFER
11 PRESERVES, ~~MAINTAINS,~~ OR ENHANCES THE VISUAL CHARACTER OF THE ROAD AND
12 SURROUNDING AREA, AND WHETHER ACCESS MINIMIZES IMPACTS TO THE BUFFER.
13 AFTER CONSIDERING THE SITE ACCESS, THE BUFFER CONCEPT PLAN, AND THE VISUAL
14 ASSESSMENT AND POTENTIAL IMPACTS TO THE BUFFER, THE PLANNING BOARD MAY
15 REDUCE AN EXISTING NON-WOODED BUFFER TO NO-LESS THAN 75 FEET IF A BUFFER
16 LESS THAN 100 FEET WIDE COULD PROVIDE NATURAL SCREENING OR IF REPLANTED AS
17 FOREST OR WOODED AREA.

18 ~~(5)~~ (6) ROAD IMPROVEMENTS. ROAD IMPROVEMENTS REQUIRED PURSUANT TO DESIGN
19 MANUAL VOLUME III (ROADS AND BRIDGES) SHALL SERVE TO PRESERVE, MAINTAIN,
20 AND ENHANCE THE EXISTING CHARACTER OF A SCENIC ROAD AS PRACTICABLE AND
21 MINIMIZE VISUAL IMPACTS BY LIMITING IMPROVEMENTS TO THOSE NECESSARY FOR
22 PUBLIC SAFETY. IF THE DIRECTOR OF PLANNING AND ZONING, AFTER CONSULTATION
23 WITH THE DIRECTOR OF PUBLIC WORKS, DETERMINES THAT THE TIMING OF A CAPITAL
24 PROJECT(S) OR THE NEED TO ENSURE CONTINUITY IN THE TRANSPORTATION NETWORK
25 MAKES IT MORE EFFICIENT TO DELAY CONSTRUCTION OF ALL OR PART OF THE PRESCRIBED
26 ROAD IMPROVEMENTS UNDER VOLUME III (ROADS AND BRIDGES) OF THE DESIGN
27 MANUAL, THE DIRECTOR OF PLANNING AND ZONING SHALL REQUIRE THAT THE
28 DEVELOPER:

29 (i) DELAY THE ROAD CONSTRUCTION OF ALL OR PART OF THE IMPROVEMENTS TO
30 A DATE CERTAIN NOT TO EXCEED 12 MONTHS AND SIGN A MAJOR FACILITIES
31 AGREEMENT GUARANTEEING THE CONSTRUCTION OF THE DELAYED ROAD
32 IMPROVEMENTS; OR

1 (ii) SIGN A MAJOR FACILITIES AGREEMENT TO PAY THE COUNTY THE CURRENT
2 ESTIMATED COST OF THE ROAD IMPROVEMENTS, WHICH MONEY SHALL BE
3 USED BY THE COUNTY TO FUND ALL OR PART OF A CAPITAL PROJECT TO
4 IMPROVE THE SCENIC ROAD.

5 ~~[(4)]~~ (D) *Administrative waivers.*

6 ~~[(i)]~~ (1) A developer seeking an administrative waiver from the scenic road
7 requirements shall give written notice within one week of the filing date of the waiver
8 petition, via first-class mail to:

9 ~~[(a.)]~~ (I) All adjoining property owners identified in the records of the State
10 Department of Assessments and Taxation; and

11 ~~[(b.)]~~ (II) All attendees of record of the presubmission community meeting; and

12 ~~[(c.)]~~ (III) All interested parties on file with the Department of Planning and
13 Zoning.

14 ~~[(ii)]~~ (2) The Department shall not approve any petition for a scenic road requirement waiver
15 within 30 days of meeting the written notice requirement to allow for public comment.

16 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act*
17 *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 10, 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. 63-2019

BY: Christiana Mercer Rigby

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 1

(This amendment clarifies that any new developments outside of the Planned Service Area located along scenic roads must continue to maintain a certain 35-foot buffer. The amendment requires for new major subdivisions a certain minimum continuous vegetated buffer to be maintained between the road and subdivision to preserve or enhance the visual character of the road.)

1 On the title page, in line 1 of the purpose paragraph, after “by”, insert “clarifying that new
2 developments outside of the Planned Service Area must continue to maintain a certain buffer.”.

3
4 On page 2, in lines 18 and 21, strike the double brackets in each instance.

5
6 On the same page, in line 18, after “developments”, insert “OUTSIDE OF THE PLANNED SERVICE
7 AREA”.

8
9 On the same page, strike beginning with “*BUFFERS.*” in line 22 down through “*OTHERWISE.*” in
10 line 29.

11
12 On page 3, after line 20, insert:

13 “(2) FOR NEW MAJOR SUBDIVISIONS, A MINIMUM 100-FOOT CONTINUOUS VEGETATED
14 BUFFER, AS MEASURED FROM THE RIGHT-OF-WAY, SHALL BE MAINTAINED BETWEEN THE ROAD AND”

A ___ CB63-CMR-Buffers-LBR-Version 2-11/26/2019 9:33 a.m.

ADOPTED December 2, 2019, as amended
FAILED
SIGNATURE Deane A. Jones

1 SUBDIVISION TO PRESERVE OR ENHANCE THE VISUAL CHARACTER OF THE ROAD."

2

3 On pages 3 through 5, in lines 21, 24, 17, and 10, strike "(2)", "(3)", "(4)", and "(5)",
4 respectively, and substitute "(3)", "(4)", "(5)", and "(6)", respectively.

5

6 On page 5, in line 3, strike ", MAINTAINS,".

Amendment 1 to Amendment No. 1 to Council Bill No. 63-2019

BY: Christiana Mercer Rigby

Legislative Day 14

Date: December 2, 2019

Amendment No. 1 to Am. 1

(This amendment clarifies that a requirement for a certain minimum 100-foot continuous vegetated buffer between the road and the subdivision applies to new major subdivisions inside the Planned Service Area.)

- 1 On page 1, in line 13, after "SUBDIVISIONS", insert "INSIDE THE PLANNED SERVICE AREA".

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

Amendment 2 to Council Bill No. 63-2019

BY: David Yungmann

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 2

(This amendment defines the term "continuous vegetated".)

- 1 On page 2, in line 22, after "BUFFERS.", insert "IN THIS PARAGRAPH, "CONTINUOUS VEGETATED"
2 MEANS VEGETATION THROUGHOUT THE BUFFER AREA CONSISTENT WITH THE VEGETATION ON THE
3 SURROUNDING IMPROVED RESIDENTIAL PROPERTIES."

ADOPTED _____
FAILED December 2, 2019
SIGNATURE David Yungmann

Amendment 3 to Council Bill No. 63-2019

BY: Christiana Mercer Rigby

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 3

(This amendment requires the approval of the Planning Board of a certain minor subdivision that abuts or adjoins a scenic road prior to final approval by the Department of Planning and Zoning.)

- 1 On the title page, in line 3 of the purpose paragraph, after "major", insert "or minor".
- 2
- 3 On page 3, in line 14, after "MAJOR", insert "OR MINOR".

ACCEPTED December 2, 2019
FAILED _____
SIGNATURE Quinn Jones

Amendment 4 to Council Bill No. 63-2019

BY: David Yungmann

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 4

(This amendment exempts a certain subdivision that has received signature approval of an initial plan from the Department of Planning and Zoning prior to December 1, 2019 from a certain approval process for developments along scenic roads.)

- 1 On page 3, in line 17, after “*DEVELOPMENT*”, insert “THAT HAS RECEIVED SIGNATURE APPROVAL
- 2 OF THE INITIAL PLAN FROM THE DEPARTMENT OF PLANNING AND ZONING PRIOR TO DECEMBER 1,
- 3 2019 OR”.

ADOPTED _____
FAILED December 2, 2019
SIGNATURE Alvarez Jones

Amendment 5 to Council Bill No. 63-2019

BY: Christiana Mercer Rigby

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 5

(This amendment allows a certain multi-use pathway in a vegetated buffer under certain circumstances.)

1 On page 3, in line 27, after "DISTURBANCE", insert "; HOWEVER, A MULTI-USE PATHWAY NOT
2 EXCEEDING 10 FEET IN WIDTH MAY BE LOCATED WITHIN A VEGETATED BUFFER.".

3
4 On the same page, in line 28, after "BUFFER", insert "; WHICH MAY INCLUDE A MULTI-USE
5 PATHWAY NOT EXCEEDING 10 FEET IN WIDTH THAT MAY BE LOCATED WITHIN A VEGETATED
6 BUFFER.".

7
8

ADOPTED December 2, 2019, as amended

FAILED

SIGNATURE

Deane J. Jones

Amendment 1 to Amendment No. 5 to Council Bill No. 63-2019

BY: Christiana Mercer Rigby

Legislative Day 14

Date: December 2, 2019

Amendment No. 1

(This amendment provides that a certain multi-use pathway in a vegetated buffer may not exceed 15 feet of disturbance.)

- 1 On page 1, in line 2, strike "10" and substitute "15"; and in the same line, strike "IN WIDTH" and
2 substitute "OF DISTURBANCE".
3
4 On page 1, in line 5, strike "10" and substitute "15"; and in the same line, strike "IN WIDTH" and
5 substitute "OF DISTURBANCE".

ADOPTED December 7, 2019
FAILED
SIGNATURE Deane A. Jones

Amendment 6 to Council Bill No. 63-2019

BY: Christiana Mercer Rigby

Legislative Day 14

Date: December 2, 2019

Amendment No. 6

(This amendment alters certain criteria relating to the permitted access along a scenic road that the Planning Board is required to use to evaluate a certain initial plan submittal.)

- 1 On page 4, in line 30, strike "UTILIZE AND"; and in the same line, strike "LOCATION,".
- 2
- 3 On page 4, in line 31, strike "PANORAMIC".
- 4
- 5 On page 4, in line 32, strike "FOR AT LEAST THE WIDTH OF THE REQUIRED BUFFER".

ADOPTED December 2, 2019
FAILED _____
SIGNATURE Diane A. 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 # 13

Bill No. 63 - 2019

Introduced by: **Liz Walsh, Deb Jung, and Christiana Mercer Rigby**

AN ACT amending the Howard County Code by altering the requirements for a certain buffer between a road and a new major subdivision that is located along a Scenic Road; altering a certain approval process for a major subdivision that abuts or adjoins a scenic road; and generally relating to Scenic Roads.

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

By order *Diane Schwartz 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 Schwartz 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 Schwartz 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

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.

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4 *By Amending:*

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7 *Subtitle 1. "Subdivisions and Land Development Regulations"*

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11 **HOWARD COUNTY CODE**

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19 Regulations, Forest Conservation ordinance and Landscape Manual shall be applied to
20 development along a scenic road in a manner which helps to preserve the scenic character of
21 the landscape viewed from these roads and the features of the road right-of-way that contribute
22 to the road's scenic character.

23 (b) *Guidelines for Development of Land Abutting a Scenic Road.* Because scenic landscapes
24 vary greatly, design solutions for development will vary. The following guidelines provide
25 direction for the development of land abutting a scenic road. They are to be applied as
26 appropriate, given the constraints of the particular site and the relative priority of other County
27 policies and requirements such as public safety, farmland preservation, forest conservation,
28 protection of sensitive environmental features and the need to construct public facilities.

29 (1) *General.*

30 (i) Use the cluster subdivision provisions of the zoning regulations to site buildings and
31 roads in locations that minimize the impact of the subdivision on views from the
32 scenic road. Generally structures and uses should be located away from the right-of-
33 way for scenic roads unless screened by topography or vegetation.

34 (ii) Minimize tree and vegetation removal. In addition to requirements for protection

1 of forests, steep slopes, streams and wetlands, emphasize the protection of vegetation
2 adjacent to the scenic road, as well as mature trees and hedgerows visible from the
3 road.

- 4 (iii) Minimize grading; retain existing slopes along the scenic road frontage.
- 5 (iv) Orient lots so that houses do not back up to a scenic road. If this cannot be avoided,
6 houses should be sited as far as possible from the road and well screened.
- 7 (v) Locate and design utilities, stormwater management facilities, drainage structures,
8 bridges, lighting, fences and walls to be unobtrusive and to harmonize with the
9 surroundings to maintain existing view corridors. Subdivision entrance features
10 should be low, open, and in keeping with the scenic character of the area in
11 accordance with section 128 of the zoning regulations.
- 12 (vi) Locate parking lots, loading areas and storage areas so that these uses are screened
13 from the scenic road.
- 14 (vii) Use vegetation commonly found on the site or in the area for landscaping.
- 15 (viii) For density receiving subdivisions in the RC and RR zoning districts, achieving
16 the maximum possible density is not sufficient justification to allow impacts on
17 scenic roads.

- 18 (2) *[[Forested or wooded areas. Any new developments located along scenic roads must*
19 *maintain at least a 35-foot buffer of existing forest or wooded area between the road and*
20 *the new development. The buffer shall be wide enough to maintain the road's visual*
21 *character with a minimum width of at least 35 feet from the road right-of-way.]]*

22 *BUFFERS. FOR NEW MAJOR SUBDIVISIONS, A MINIMUM 100-FOOT CONTINUOUS VEGETATED*
23 *BUFFER, AS MEASURED FROM THE RIGHT-OF-WAY, SHALL BE MAINTAINED BETWEEN THE*
24 *ROAD AND SUBDIVISION TO PRESERVE, MAINTAIN, OR ENHANCE THE VISUAL CHARACTER*
25 *OF THE ROAD. THE BUFFER SHALL CLOSELY REFLECT THE NATURAL CHARACTER OF THE*
26 *UNDEVELOPED LAND. ANY INVASIVE SPECIES SHALL BE REMOVED FROM THE BUFFER, AND*
27 *THE BUFFER SHALL BE REPLANTED AND ENHANCED WITH NATIVE SPECIES OF THE SAME*
28 *COMMUNITY TYPES, WHETHER FOREST, WETLANDS, FIELD, PASTURE, MEADOW,*
29 *HEDGEROW, OR OTHERWISE.*

1 (3) *Areas with open views.*

- 2 (i) Cluster development to retain as much as possible of the open character of the site
3 and to minimize interference with panoramic views from the road.
- 4 (ii) Where possible, site new buildings behind natural screening or cluster development
5 in or along the edges of forests, at the edges of fields and hedgerows, or near existing
6 buildings.
- 7 (iii) Preserve the foreground meadow, pasture or cropland and place development in
8 the background as viewed from the road.
- 9 (iv) Avoid placing structures on the tops of prominent ridges.
- 10 (v) If new construction cannot be made unobtrusive through siting or the use of natural
11 screening, use landscaping, including berms, to buffer development from the scenic
12 road.

13 (C) *APPROVALS.*

- 14 (1) FOR ANY MAJOR SUBDIVISION THAT ABUTS OR ADJOINS A SCENIC ROAD, AN INITIAL
15 PLAN SUBMITTAL MUST BE APPROVED BY THE PLANNING BOARD PRIOR TO FINAL
16 APPROVAL BY THE DEPARTMENT OF PLANNING AND ZONING. THIS PROVISION SHALL
17 NOT APPLY TO ANY DEVELOPMENT THAT IS OUTSIDE THE PLANNED SERVICE AREA OR
18 THAT IS SUBJECT TO THE CLARKSVILLE PIKE STREETScape PLAN AND DESIGN
19 GUIDELINES, THE DOWNTOWN-WIDE DESIGN GUIDELINES, OR THE DOWNTOWN
20 NEIGHBORHOOD DESIGN GUIDELINES FOR DOWNTOWN COLUMBIA REVITALIZATION.
- 21 (2) THE PLANNING BOARD SHALL EVALUATE THE PROPOSED INITIAL PLAN SUBMITTAL AT A
22 PUBLIC MEETING AND CONSIDER A VISUAL ASSESSMENT OF THE AFFECTED SCENIC
23 ROAD.
- 24 (3) THE INITIAL PLAN SUBMITTAL SHALL INCLUDE ALL INFORMATION REQUIRED BY THE
25 SUBDIVISION AND LAND DEVELOPMENT REGULATIONS OF THE HOWARD COUNTY
26 CODE, AND THE FOLLOWING:
- 27 (i) SITE ACCESS AND METHODS TO MINIMIZE BUFFER DISTURBANCE;
28 (ii) A CONCEPT LANDSCAPE AND GRADING PLAN FOR THE BUFFER; AND
29 (iii) A VISUAL ASSESSMENT, INCLUDING POTENTIAL VIEWPOINTS OF THE DEVELOPMENT
30 TAKEN FROM THE SCENIC ROAD, INCLUDING:

- A. PLANS AND AERIAL PHOTOGRAPHS SHOWING THE SUBJECT PROPERTY, ITS CONTEXT, AND SURROUNDING LAND USES AND DEVELOPMENT CHARACTER, INCLUDING THE SETBACKS AND LOT LAYOUTS OF THE SURROUNDING AREA;
- B. PERSPECTIVE DRAWINGS, PHOTOGRAPHIC SIMULATIONS, CROSS SECTIONS AND/OR ELEVATIONS SHOWING EXISTING CONDITIONS AND PROPOSED CHANGES ASSOCIATED WITH THE PROPOSED DEVELOPMENT;
- C. A SURVEY OF EXISTING VEGETATION SHOWING TREES 12 INCHES OR GREATER IN CALIPER AND NON-NATIVE, INVASIVE SPECIES;
- D. A DESCRIPTION SUMMARIZING THE CHARACTER AND QUALITY OF THE SCENIC ROAD, AS VIEWED FROM THE ROAD, USING THE SCENIC ROADS INVENTORY AS A GUIDE; AND
- E. A DETAILED ASSESSMENT OF ANY PROPOSED VISUAL IMPACTS TO SCENIC OR HISTORIC FEATURES AND PROPOSED MITIGATION MEASURES, INCLUDING AN ASSESSMENT OF WHETHER THE PROPOSED CHANGES COMPLY WITH THE GUIDELINES FOR DEVELOPMENT OF LAND ABUTTING A SCENIC ROAD IN SUBSECTION (B) OF THIS SECTION.

(4) THE PLANNING BOARD SHALL USE THE CRITERIA SPECIFIED IN THIS PARAGRAPH TO EVALUATE THE INITIAL PLAN SUBMITTAL.

(I) ACCESS. THE PLANNING BOARD SHALL CONSIDER WHETHER THE PROPERTY HAS FRONTAGE ON A NON-SCENIC ROAD, THE IMPACTS TO ENVIRONMENTAL FEATURES, AND TRAFFIC SAFETY.

- A. WHEREVER PRACTICABLE, ACCESS SHALL BE LOCATED ALONG A NON-SCENIC ROAD.
- B. 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.
- C. ONLY TO THE EXTENT VEHICULAR ACCESS CANNOT BE PRACTICABLY LOCATED ALONG A NON-SCENIC ROAD OR AT AN EXISTING DRIVEWAY, ADDITIONAL ACCESS ALONG A SCENIC ROAD MAY BE PERMITTED.
- D. TO THE EXTENT THAT ANY ACCESS IS PERMITTED ALONG A SCENIC ROAD, SUCH ACCESS SHALL UTILIZE AND PRESERVE THE LOCATION, ALIGNMENT, TOPOGRAPHY AND SURROUNDINGS SO AS TO MINIMIZE INTERFERENCE WITH PANORAMIC VIEWS FROM THE ROAD FOR AT LEAST THE WIDTH OF THE REQUIRED BUFFER WHILE

1 ENSURING PUBLIC SAFETY.

2 (II) BUFFERS. THE PLANNING BOARD SHALL DETERMINE WHETHER THE BUFFER
3 PRESERVES, MAINTAINS, OR ENHANCES THE VISUAL CHARACTER OF THE ROAD AND
4 SURROUNDING AREA, AND WHETHER ACCESS MINIMIZES IMPACTS TO THE BUFFER.
5 AFTER CONSIDERING THE SITE ACCESS, THE BUFFER CONCEPT PLAN, AND THE VISUAL
6 ASSESSMENT AND POTENTIAL IMPACTS TO THE BUFFER, THE PLANNING BOARD MAY
7 REDUCE AN EXISTING NON-WOODED BUFFER TO NO-LESS THAN 75 FEET IF A BUFFER
8 LESS THAN 100 FEET WIDE COULD PROVIDE NATURAL SCREENING OR IF REPLANTED AS
9 FOREST OR WOODED AREA.

10 (5) ROAD IMPROVEMENTS. ROAD IMPROVEMENTS REQUIRED PURSUANT TO DESIGN
11 MANUAL VOLUME III (ROADS AND BRIDGES) SHALL SERVE TO PRESERVE, MAINTAIN,
12 AND ENHANCE THE EXISTING CHARACTER OF A SCENIC ROAD AS PRACTICABLE AND
13 MINIMIZE VISUAL IMPACTS BY LIMITING IMPROVEMENTS TO THOSE NECESSARY FOR
14 PUBLIC SAFETY. IF THE DIRECTOR OF PLANNING AND ZONING, AFTER CONSULTATION
15 WITH THE DIRECTOR OF PUBLIC WORKS, DETERMINES THAT THE TIMING OF A CAPITAL
16 PROJECT(S) OR THE NEED TO ENSURE CONTINUITY IN THE TRANSPORTATION NETWORK
17 MAKES IT MORE EFFICIENT TO DELAY CONSTRUCTION OF ALL OR PART OF THE PRESCRIBED
18 ROAD IMPROVEMENTS UNDER VOLUME III (ROADS AND BRIDGES) OF THE DESIGN
19 MANUAL, THE DIRECTOR OF PLANNING AND ZONING SHALL REQUIRE THAT THE
20 DEVELOPER:

21 (I) DELAY THE ROAD CONSTRUCTION OF ALL OR PART OF THE IMPROVEMENTS TO
22 A DATE CERTAIN NOT TO EXCEED 12 MONTHS AND SIGN A MAJOR FACILITIES
23 AGREEMENT GUARANTEEING THE CONSTRUCTION OF THE DELAYED ROAD
24 IMPROVEMENTS; OR

25 (II) SIGN A MAJOR FACILITIES AGREEMENT TO PAY THE COUNTY THE CURRENT
26 ESTIMATED COST OF THE ROAD IMPROVEMENTS, WHICH MONEY SHALL BE
27 USED BY THE COUNTY TO FUND ALL OR PART OF A CAPITAL PROJECT TO
28 IMPROVE THE SCENIC ROAD.

29 ~~[[4]]~~ (D) *Administrative waivers.*

30 ~~[[i]]~~ (1) A developer seeking an administrative waiver from the scenic road
31 requirements shall give written notice within one week of the filing date of the waiver

petition, via first-class mail to:

[[a.]] (I) All adjoining property owners identified in the records of the State Department of Assessments and Taxation; and

[[b.]] (II) All attendees of record of the presubmission community meeting; and

[[c.]] (III) All interested parties on file with the Department of Planning and Zoning.

[[ii]] (2) The Department shall not approve any petition for a scenic road requirement waiver within 30 days of meeting the written notice requirement to allow for public comment.

Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act shall become effective 61 days after its enactment.



Amendment 1 to Council Bill No. 63-2019

BY: Christiana Mercer Rigby

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 1

(This amendment clarifies that any new developments outside of the Planned Service Area located along scenic roads must continue to maintain a certain 35-foot buffer. The amendment requires for new major subdivisions a certain minimum continuous vegetated buffer to be maintained between the road and subdivision to preserve or enhance the visual character of the road.)

1 On the title page, in line 1 of the purpose paragraph, after “by”, insert “clarifying that new
2 developments outside of the Planned Service Area must continue to maintain a certain buffer;”.

3
4 On page 2, in lines 18 and 21, strike the double brackets in each instance.

5
6 On the same page, in line 18, after “developments”, insert “OUTSIDE OF THE PLANNED SERVICE
7 AREA”.

8
9 On the same page, strike beginning with “*BUFFERS.*” in line 22 down through “*OTHERWISE.*” in
10 line 29.

11
12 On page 3, after line 20, insert:

13 “(2) FOR NEW MAJOR SUBDIVISIONS, A MINIMUM 100-FOOT CONTINUOUS VEGETATED
14 BUFFER, AS MEASURED FROM THE RIGHT-OF-WAY, SHALL BE MAINTAINED BETWEEN THE ROAD AND”

1 SUBDIVISION TO PRESERVE OR ENHANCE THE VISUAL CHARACTER OF THE ROAD."

2

3 On pages 3 through 5, in lines 21, 24, 17, and 10, strike "(2)", "(3)", "(4)", and "(5)",
4 respectively, and substitute "(3)", "(4)", "(5)", and "(6)", respectively.

5

6 On page 5, in line 3, strike ", MAINTAINS,".

Amendment 1 to Council Bill No. 63-2019

BY: Christiana Mercer Rigby

Legislative Day No. 14

Date: December 2, 2019

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10 line 29.

11
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14 BUFFER, AS MEASURED FROM THE RIGHT-OF-WAY, SHALL BE MAINTAINED BETWEEN THE ROAD AND”

Amendment 2 to Council Bill No. 63-2019

BY: David Yungmann

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 2

(This amendment defines the term "continuous vegetated".)

- 1 On page 2, in line 22, after "*BUFFERS*.", insert "IN THIS PARAGRAPH, "CONTINUOUS VEGETATED"
- 2 MEANS VEGETATION THROUGHOUT THE BUFFER AREA CONSISTENT WITH THE VEGETATION ON THE
- 3 SURROUNDING IMPROVED RESIDENTIAL PROPERTIES."

Amendment 3 to Council Bill No. 63-2019

BY: Christiana Mercer Rigby

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 3

(This amendment requires the approval of the Planning Board of a certain minor subdivision that abuts or adjoins a scenic road prior to final approval by the Department of Planning and Zoning.)

- 1 On the title page, in line 3 of the purpose paragraph, after “major”, insert “or minor”.
- 2
- 3 On page 3, in line 14, after “MAJOR”, insert “OR MINOR”.

Amendment 4 to Council Bill No. 63-2019

BY: David Yungmann

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 4

(This amendment exempts a certain subdivision that has received signature approval of an initial plan from the Department of Planning and Zoning prior to December 1, 2019 from a certain approval process for developments along scenic roads.)

- 1 On page 3, in line 17, after "*DEVELOPMENT*", insert "THAT HAS RECEIVED SIGNATURE APPROVAL
- 2 OF THE INITIAL PLAN FROM THE DEPARTMENT OF PLANNING AND ZONING PRIOR TO DECEMBER 1,
- 3 2019 OR".

Amendment 5 to Council Bill No. 63-2019

BY: Christiana Mercer Rigby

Legislative Day No. 14

Date: December 2, 2019

Amendment No. 5

(This amendment allows a certain multi-use pathway in a vegetated buffer under certain circumstances.)

1 On page 3, in line 27, after “DISTURBANCE”, insert “; HOWEVER, A MULTI-USE PATHWAY NOT
2 EXCEEDING 10 FEET IN WIDTH MAY BE LOCATED WITHIN A VEGETATED BUFFER.”.

3
4 On the same page, in line 28, after “BUFFER”, insert “; WHICH MAY INCLUDE A MULTI-USE
5 PATHWAY NOT EXCEEDING 10 FEET IN WIDTH THAT MAY BE LOCATED WITHIN A VEGETATED
6 BUFFER.”.

7
8

~~SECRET~~
C763-2019

Sayers, Margery

From: Stephanie Tuite <Stephanie@fcc-eng.com>
Sent: Friday, November 29, 2019 5:35 AM
To: CouncilMail
Subject: Scenic Roads Legislation followup
Attachments: Stephanie Tuite.vcf; Scenic roads photos.pdf

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

Hi all,

Thanks for taking the time to listen to the thoughts of some of us in the industry and how we work with the current regulations as well as how we see the proposed legislation. I did not have an opportunity to discuss the scenic roads legislation since there was a lot of discussion on Forest Conservation. I left the attached photos with Mr. Yungmann to give to all of you. Some are more supportive of what I wanted to say than others. Some along scenic roads and some that were good examples of what I wanted to show. There are some photos along Highland Road, one with the intersection of Mink Hollow Road that shows what I wanted to suggest. It shows a mix of vegetation, both deciduous and evergreen, the majority of which is a random planted buffer that is only a tree or so deep, not 100 feet. It is the mix of vegetation that I feel gives it scenic character, not the depth. I feel you can achieve the scenic character with a minimal buffer, especially when a mix of deciduous and evergreen. It would be worth using supplemental plantings to enhance the buffers that are created. One of the photos along a scenic road was for a subdivision along Old Frederick Road where the entrance was relocated with the subdivision due to sight distance / visibility issues and the buffer along the scenic road varies in depth between 35-40 feet to wider where it is part of a forest conservation easement and I feel the picture suggests how the scenic character can still be achieved with a narrower buffer.

Steph



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COTTENHA, COUNTEE OFFICE PARK - 10072 MULTWOOD NATIONAL PIKE
CHASLOT CITY, CALIFORNIA 91042
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Stephanie Tuite
RLA, PE, LEED AP BD&C
(410) 461-2855
Stephanie@fcc-eng.com

BUFFER EXAMPLES FOR SCENIC ROADS



Single line of trees provide visual character



Fence and lines of trees along Frederick Road

BUFFER EXAMPLES FOR SCENIC ROADS



Along Highland Road (not a scenic Road) there are lines of evergreen trees that are good example of providing scenic character.



Also along Highland Road, a line of ornamental trees with a fence and evergreens behind.

BUFFER EXAMPLES FOR SCENIC ROADS



Near the intersection of Mink Hollow Road and Highland Road, prior to intersection is line of evergreens with some shade trees / deciduous trees in the background.



New common driveway entrance along Old Frederick Road.

BUFFER EXAMPLES FOR SCENIC ROADS



New house built on the knoll in the background along Old Frederick Road.



Near the new driveway entrance is a scenic roads buffer that starts out about 40 feet in width and varies along Old Frederick Road (scenic road section).

BUFFER EXAMPLES FOR SCENIC ROADS



Single line of trees along Pfefferkorn Road (scenic road)



Grouping of trees (evergreen and deciduous) along a berm on the north side and single line of ornamental trees and evergreens along the south side of Clarksville Pike (Rt 108) – scenic road.

BUFFER EXAMPLES FOR SCENIC ROADS



Another section of Clarksville Pike.



Single lines of trees along both side of Sheppard Lane (scenic road).

BUFFER EXAMPLES FOR SCENIC ROADS



Plantings with narrow buffer along Sheppard Lane near an older subdivision entrance.



Single lines of trees approaching a wider buffer along Sheppard Lane just south of Folly Quarter Road / Homewood Road circle.

CB63

Sayers, Margery

From: Kimberlee Drake <kimdrakeenv@gmail.com>
Sent: Monday, November 18, 2019 4:05 PM
To: CouncilMail
Subject: Support CB63

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

Dear Howard County Councilmembers,

I support CB63.

I speak for myself but also support testimony sent in by Smarter growth alliance for Howard County, a group I am involved with.

Thank you,
Kim Drake
District 2

Sayers, Margery

From: Leonardo McClarty <lmccarty@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

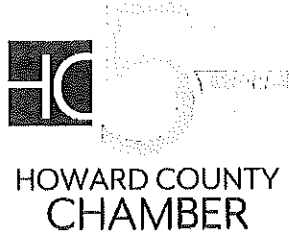
[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

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



HCCA

Howard County Citizens Association

Since 1961...

The Voice Of The People of Howard County

Date: 18 November 2019

Subject: HCCA Testimony for CB63-2019 – In FAVOR

My name is Stu Kohn and I am the President of the Howard County Citizens Association speaking on their behalf.

We are in FAVOR of this Bill as we were when we testified in March on CB11. We want to thank Council Members Jung, Rigby, and Walsh for voting in favor of CB11. We were very disappointed to have Councilman Jones who abstained and Yungmann voting no. This Bill made sense in an attempt to take a little pride to enjoy the view of designated Scenic Roads. What was even more unsettling was that the County Executive placed a veto on the Bill which was successful because it could not be over ridden. Humbug!

Why are we back here again? How does this Bill differ from the amended version of CB11? Will there be any grandfathering of this Bill for any applicable developments? Are we here wasting our time, effort, wear and tear of our cars or gas money? Will Mr. Jones and Yungmann consider changing their minds? We ask because their names do not appear on the Bill. Will the County Executive again strike his pen to declare a veto? We only hope that these participants will this time do the right thing and pass CB63.

In March regarding the testimony of CB11, HCCA proposed an amendment which was very warranted but ignored. Perhaps you will reconsider it in this Bill. Please refer to Page 2, Lines 7 thru 11 and add on Line 11 after the word "regulations" the following. "There shall be no destruction of existing mature trees or digging of any kind on Scenic Roads due to the need of utilities for any proposed developments within the immediate area."

We look forward to hopefully seeing major improvements in the protection of our scenic roads. Just look behind you at the Howard County seal. If you enjoy this most scenic view then you shouldn't hesitate to vote in the affirmative as it is the right thing to do for the public to enjoy unobstructed scenery. Your seal of approval will go a long ways to really show your constituents that you care about the protection of scenic views.

Stu Kohn
HCCA President



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

I, Stu Koho, have been duly authorized by
(name of individual)

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

County Council regarding CB63-2019 to express the organization's
(bill or resolution number)

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

Printed Name: Stu Koho

Signature: [Handwritten Signature]

Date: 18 NOV 19

Organization: HCCA

Organization Address: PO Box 89
ELLIOTT CITY MD 21041

Number of Members: 500

Name of Chair/President: Stu Koho

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, 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 CB63-2019 to express the organization's
(bill or resolution number)

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

Printed Name: Maryland Building Industry Association

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.

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
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(410) 461-2855

Stephanie Tuite
RIA, 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.

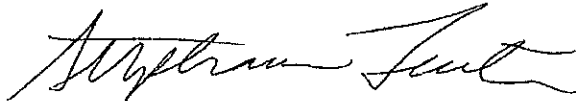
CB63

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: joel hurewitz <joelhurewitz@gmail.com>
Sent: Sunday, November 17, 2019 4:23 AM
To: CouncilMail
Cc: Sager, Jennifer
Subject: CB63-2019 Forest Conservation Act

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

Dear Council,

I wish to point out the following issues in CB63-2019 for correction/clarification:

I think that the COMAR citation on Page 5, Line 26 is incomplete. It should be "08.19.03.01 Article II" <http://mdrules.elaws.us/comar/08.19.03.01>

The citation is also incorrect in the current Code:

Sec. 16.1201. - Definitions.

(u)

Other terms which are defined in the Natural Resources Article section 5-1601, "Definitions," Annotated Code of Maryland, COMAR 08.19.01.03, "Definitions," and COMAR 08.19.03, article II, "Forest and Tree Conservation Definitions," are incorporated by reference and shall apply to this subtitle for any terms which are not defined in this section or the Manual.

(C.B. 37, 1992; C.B. 51, 1994; C.B. 4, 1996; C.B. 10, 2014, § 1)

In addition, "DBH" appears on Page 23, Line 22 . A Google search shows that it appears to mean "diameter at breast height." However this abbreviation is apparently not defined in the bill, nor can I find it in the cited COMAR definitions.

Sincerely,

Joel Hurewitz

definitions.

Sayers, Margery

From: Kimberly Golden Brandt <kbrandt@presmd.org>
Sent: Friday, November 15, 2019 12:54 PM
To: Walsh, Elizabeth; Jones, Opel; Rigby, Christiana; Jung, Deb;
dlyungmann@howardcountymd.org; CouncilMail
Cc: Ball, Calvin
Subject: SGAHC Support for CB63, Scenic Road Buffers for Major Subdivisions
Attachments: SGAHC Support for CB63, Scenic Road Buffers for Major Subdivisions.pdf

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

Dear Council Members,

Please see the attached letter supporting CB63 from Audubon Maryland-DC, Audubon Society of Central Maryland, Bicycling Advocates of Howard County, Clean Water Action, Coalition for Smarter Growth, Community Ecology Institute, Howard County Citizens Association, Howard County Sierra Club, Maryland Conservation Council, Maryland League of Conservation Voters, Maryland Ornithological Society, Preservation Maryland, Safe Skies Maryland, Savage Community Association, and The People's Voice.

Sincerely,
Kimberly

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

Smarter Growth Alliance for Howard County

November 15, 2019

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

RE: Bill 63-2019, Buffers for Major Subdivisions on Scenic Roads

Dear Council Members:

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

We strongly support Bill 63-2019 to preserve Howard County's remaining Scenic Roads and we thank you for revisiting this matter.

Increasing the buffer area between Scenic Roads and major subdivisions, requiring removal of invasive species from the buffer area, and requiring the buffer area to be replanted or enhanced with native species of the same community type (forest, wetlands, pasture, meadow) is critical to maintaining community character and will also provide a variety of environmental benefits.

Additionally, the provisions in the bill requiring the plan submittal to include a detailed visual assessment depicting existing conditions and changes associated with development will ensure that the Planning Board and the community have the information necessary to properly assess the impacts of the proposed development.

Finally, to maintain the existing character of Scenic Roads we support limiting road improvements to those necessary for public safety as described in the bill.

We thank you for your kind consideration of our comments and we ask that you vote in favor of Bill 63-2019.

*Audubon MD-DC • Audubon Society of Central Maryland • Bicycling Advocates of Howard County • Clean Water Action
Coalition for Smarter Growth • Community Ecology Institute • Earth Forum of Howard County • HARP
Howard County Citizens Association • Howard County Conservancy • Howard County Sierra Club • Maryland Conservation Council
Maryland League of Conservation Voters • Maryland Ornithological Society • Patapsco Heritage Greenway
Preservation Maryland • Safe Skies Maryland • Savage Community Association • The People's Voice • Transition Howard County*

Sincerely,

Audubon Maryland-DC
David Curson
Director of Bird Conservation

Howard County Sierra Club
Carolyn Parsa
Chair

Audubon Society of Central Maryland
Morgan Lakey
President

Maryland Conservation Council
Paulette Hammond
President

Bicycling Advocates of Howard County
Jack Guarneri
President

Maryland League of Conservation Voters
Kim Coble
Executive Director

Clean Water Action
Emily Ranson
Maryland Program Coordinator

Maryland Ornithological Society
Kurt R. Schwarz
Conservation Chair

Coalition for Smarter Growth
Stewart Schwartz
Executive Director

Preservation Maryland
Kimberly Golden Brandt
Director of Smart Growth Maryland

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

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

Howard County Citizens Association
Stu Kohn
President

Savage Community Association
Susan Garber
Board Chair

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

cc: The Honorable Calvin Ball, County Executive