

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day No. 16

Bill No. 78 -2021

Introduced by Liz Walsh

AN ACT adding new definitions to the Forest Conservation ordinance; establishing a “look-back” provision for the disturbance of certain trees; reducing the diameter threshold to 24 inches for forest retention; and generally relating to forest conservation in the County.

Introduced and read first time _____, 2021. Ordered posted and hearing scheduled.

By order _____
Michelle R. Harrod, 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 _____, 2021.

By order _____
Michelle R. Harrod, Administrator

This Bill was read the third time on _____, 2021 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Michelle R. Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2021 at ___ a.m./p.m.

By order _____
Michelle R. Harrod, Administrator

Approved by the County Executive _____, 2021

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*
2 *Howard County Code is amended as follows:*

3 *By amending:*

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

5 *Subtitle 12. Forest Conservation.*

6 *Section 16.1204. Forest conservation plan.*

7 *Section 16.1205. Forest retention priorities.*

8 *By adding and renumbering:*

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

10 *Subtitle 12. Forest Conservation.*

11 *Section 16.1201. Definitions.*

12 *Item (n) Green Cultural Trail;*

13 *Item (bb) Specimen Tree; and*

14 *Item (dd) Targeted Ecological Area*

15
16 **Title 16, Planning, Zoning, and Subdivisions and Land Development Regulations.**

17 **Subtitle 12. Forest Conservation.**

18 **Section 16.1201. Definitions.**

19 Except as provided in subsection (ff) of this section, words and phrases used in this subtitle
20 have their usual meaning unless defined in the Subdivision and Land Development Regulations
21 as set forth in subtitle 1 of this title or as follows in this section:

22 (N) *GREEN CULTURAL TRAIL* MEANS A NETWORK OF INTERCONNECTED TRAILS EXTENDING
23 FROM THE PATAPSCO RIVER UP TO THE HEADWATERS OF SEVERAL CONVERGING
24 TRIBUTARIES AS DESCRIBED IN THE ELLICOTT CITY WATERSHED MASTER PLAN, DECEMBER
25 2020, AS AMENDED.

26 (BB) *SPECIMEN TREE* MEANS A TREE REQUIRED TO BE LEFT IN AN UNDISTURBED CONDITION
27 PURSUANT TO SECTION 16.1205(A).

28 (DD) *TARGETED ECOLOGICAL AREAS* MEANS LANDS AND WATERSHEDS OF HIGH ECOLOGICAL
29 VALUE THAT HAVE BEEN IDENTIFIED AS CONSERVATION PRIORITIES AND MAPPED BY THE
30 MARYLAND DEPARTMENT OF NATURAL RESOURCES, AS UPDATED.

1 **Sec. 16.1204. Forest conservation plan.**

2 (a) *Applicability.* Forest conservation plans, consistent with this subtitle and the manual, shall
3 be submitted to the Department with applications for all development not exempt under
4 section 16.1202 of this subtitle.

5 (b) *Professionally Prepared.* The forest conservation plan shall be prepared by a licensed
6 forester, licensed landscape architect, or certified arborist.

7 (c) *Forest Stand Delineation.* The forest conservation plan shall include a forest stand
8 delineation for the property to be subdivided, developed, or graded. An approved forest
9 stand delineation is valid for five years. The forest stand delineation shall:

10 (1) Describe the extent and quality of existing forests and other vegetation and its
11 relationship to environmentally sensitive areas on-site and to forest resources on
12 adjacent properties.

13 (2) DESCRIBE THE EXTENT OF KNOWN OR PROBABLE CLEARING, CUTTING OR
14 DISTURBING OF TREES OR VEGETATION ON-SITE WITHIN THE LAST FIVE YEARS.

15 [[(2)] (3) Be used during the review process to determine the most suitable and practical
16 areas for forest conservation.

17 (d) *Forest Conservation Plan.* A forest conservation plan shall:

18 (1) State the net tract area, area of forest conservation required, and the area of forest
19 conservation proposed on-site and/or off-site;

20 (2) Show the proposed limits of disturbance;

21 (3) Show locations for proposed retention of existing forest and/or proposed
22 reforestation or afforestation. IF A PROPERTY OWNER CLEARS, CUTS OR DISTURBS
23 TREES OR VEGETATION ON-SITE WITHIN THE FIVE YEARS PRIOR TO ENTERING THE
24 DEVELOPMENT OR SUBDIVISION PROCESS, THEN THOSE TREES AND VEGETATION
25 SHALL BE DESCRIBED IN THE PLAN AND THE PROPERTY SUBJECT TO THESE
26 REGULATIONS AS THOUGH STILL EXISTING ON-SITE;

27 (4) Justify the following, if existing forest cannot be retained:

28 (i) How techniques for forest retention have been exhausted;

29 (ii) Why the priority forests specified in section 16.1205 of this subtitle cannot be left
30 in an undisturbed condition;

- 1 (iii) If priority forests and priority areas cannot be left undisturbed, where on the site
2 in priority areas reforestation or afforestation will occur in compliance with
3 section 16.1208 of this subtitle;
- 4 (iv) How site design requirements will be followed to maximize meeting forest
5 conservation obligations on-site in compliance with section 16.1209 of this
6 subtitle;
- 7 (v) How the sequence for preferred reforestation or afforestation location and
8 methods will be followed in compliance with section 16.1208 of this subtitle; and
- 9 (vi) Why reforestation or afforestation requirements cannot reasonably be
10 accomplished on- or off-site, or through a forest mitigation bank, if the applicant
11 proposes payments of an in-lieu fee to the forest conservation fund;
- 12 (5) Show proposed locations and types of protective devices and measures to be used
13 during construction to protect trees and forests designated for conservation, including
14 protection of critical root zones;
- 15 (6) In the case of reforestation or afforestation, include a reforestation or afforestation
16 plan, with a timetable, description of needed site and soil preparation, and the species,
17 size, and spacing of plantings;
- 18 (7) Include a minimum three growing season forest conservation agreement as specified in
19 the manual that details how the areas designated for retention, reforestation or
20 afforestation will be maintained to ensure protection and satisfactory establishment,
21 including a reinforcement planting provision if survival rates fall below required
22 standards. Financial security shall be provided for the forest conservation agreement as
23 provided in section 16.1210 and the manual. Minor subdivisions which meet forest
24 conservation requirements entirely by forest retention are not required to have a forest
25 conservation agreement;
- 26 (8) Include a deed of forest conservation easement with a plat of the forest conservation
27 easement area, as specified in the manual that:
- 28 (i) Provides protection, in perpetuity, for areas of forest retention, reforestation and
29 afforestation; and

- 1 (ii) Limits uses in areas of forest conservation to those uses that are designated and
2 consistent with forest conservation, including recreational activities and forest
3 management practices that are used to preserve forest;
- 4 (9) Include other information the Department determines is necessary to implement this
5 subtitle; and
- 6 (10) Be amended or a new plan prepared, as provided in the manual, if required as a result
7 of changes in the development or in the condition of the site.
- 8

9 **Section 16.1205. Forest retention priorities.**

10 (a) *On-site forest retention required.*

11 Subdivision, site development, and grading shall leave the following vegetation and specific
12 areas in an undisturbed condition:

- 13 (1) Trees and other vegetation identified on the lists of rare, threatened and endangered
14 species of the U.S. fish and wildlife service or the Maryland Department of Natural
15 Resources;
- 16 (2) Trees that are part of a historic site, [[or]] associated with a historic structure OR ARE
17 THEMSELVES HISTORIC STRUCTURES;
- 18 (3) [[State champion trees, trees 75% of the diameter of state champion trees, and trees 30"
19 in diameter or larger.]] TREES WITH A DIAMETER OF 75% OR MORE OF THE DIAMETER OF
20 THE CURRENT STATE OR COUNTY CHAMPION TREE OF THAT SPECIES, WHICHEVER IS
21 SMALLER, MEASURED AT 4.5 FEET ABOVE THE GROUND; AND
- 22 (4) TREES THAT ARE 24 INCHES IN DIAMETER OR LARGER, MEASURED AT 4.5 FEET ABOVE
23 THE GROUND.

24 (B) *PRESUMPTION.*

25 IN THE ABSENCE OF AN APPROVED FOREST CONSERVATION PLAN AS REQUIRED BY SECTION
26 16.1204 OF THIS SUBTITLE, EACH TREE DISTURBED IS PRESUMED TO BE A SPECIMEN TREE.

27 ([[b]] C) *On-Site Forest Retention Priorities.*

28 The following vegetation and specific areas are considered priority and are listed in order of
29 preference for on-site retention and protection in the County. Subdivision, site development,

1 and grading shall leave the following vegetation and specific areas in an undisturbed
2 condition unless demonstrated, to the satisfaction of the Department, that reasonable efforts
3 have been made to protect them and the plan cannot be reasonably altered or that forest
4 planting in an alternate location would have greater environmental benefit:

5 (1) Howard County Green Infrastructure Network, THE GREEN CULTURAL TRAIL AND
6 TARGETED ECOLOGICAL AREAS[.];

7 (2) 100-year floodplain as defined in the Subdivision Regulations[.];

8 (3) TREES WITHIN CEMETERIES OR HISTORIC DISTRICTS THAT ARE 12
9 INCHES IN DIAMETER OR LARGER, MEASURED AT 4.5 FEET ABOVE THE GROUND;

10 ([[3]] 4) Stream buffers as defined in the Subdivision Regulations;

11 ([[4]] 5) Forested wetlands and wetland buffers as defined in the Subdivision Regulations;

12 ([[5]] 6) Critical habitat areas and forest corridors with a minimum width of 300 feet,
13 where practical, for wildlife movement;

14 ([[6]] 7) Steep slopes as defined in the Subdivision Regulations and slopes of 15 percent or
15 greater with a soil erodibility factor greater than 0.35;

16 ([[7]] 8) Forest contiguous with the priority areas listed above;

17 ([[8]] 9) Forest contiguous with off-site forest, if the off-site forest is also protected by a
18 Forest Conservation Easement; and

19 ([[9]] 10) Property line and right-of-way buffers, particularly adjacent to scenic roads.

20 ([[c]] D) *Off-Site Retention.*

21 (1) The County or a developer may provide for off-site forest retention at a ratio of two
22 acres of forest retention for every one acre of forest conservation obligation. The off-
23 site forest must not be currently protected in perpetuity by easement or other long-term
24 protection measures.

25 (2) The vegetation and specific area priorities for locating off-site forest retention under
26 this subsection are the same as provided under subsection (b) of this section.

27

1 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that items*
2 *(n) through (ff) of the Section 16.1201 of the County Code are hereby renumbered to be items (n)*
3 *through (ii), respectively.*

4

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

Amendment 1 to Council Bill No. 78-2021

BY: Liz Walsh

Legislative Day No. 17

Date: November 1, 2021

Amendment No. 1

(This Amendment provides for penalties for noncompliance with forest retention requirements.)

1 On the title page, in the purpose paragraph, after “retention,” insert “providing for a certain non-
2 compliance penalty.”

3

4 On page 5, after line 26, insert:

5

6 (E) NONCOMPLIANCE PENALTIES. THE COUNTY SHALL ASSESS A NONCOMPLIANCE PENALTY FOR
7 EACH VIOLATION OF THIS SECTION, TO INCLUDE A REPLANTING REQUIREMENT FOR EACH SPECIMEN
8 TREE CUT OR CLEARED, AND THE COUNTY SHALL NOT ACCEPT AN APPLICATION FOR THE
9 RESIDENTIAL SUBDIVISION OF THE PROPERTY FOR FIVE YEARS.”

10

Amendment 2 to Council Bill No. 78-2021

BY: Liz Walsh

Legislative Day No. 19

Date: December 6, 2021

Amendment No. 2

(This Amendment strikes the new definitions, the look-back provision, certain elements of on-site retention, a certain presumption, and certain on-site retention priorities.)

1 On the title page, in the purpose paragraph, strike “adding new definitions to the Forest
2 Conservation ordinance; establishing a “look-back” provision for disturbance of certain trees;”.

3
4 On page 1, delete lines 22 through 30 in their entirety.

5
6 On page 2, delete lines 13 and 14 in their entirety and in line 15 strike all the square brackets and
7 strike “(3)”

8
9 Also on page 2, beginning in line 22, strike from “IF A PROPERTY” down through and including
10 “ON-SITE;” in line 26.

11
12 On page 4 in line 16, strike all the square brackets and strike beginning with “OR ARE” down
13 through and including “STRUCTURES” in line 17.

14
15 Also on page 4, strike lines 18 through 23 in their entirety and substitute:

16
17 “(3) TREES HAVING A DIAMETER MEASURED AT 4.5 FEET ABOVE THE GROUND OF:

18 (I) 24 INCHES; OR

19 (II) 75% OF THE DIAMETER, MEASURED AT 4.5 FEET ABOVE THE GROUND OF THE
20 CURRENT STATE CHAMPION TREE OF THAT SPECIES.”.

21
22 Also on page 4, strike lines 24 through 26 in their entirety.

24 Also on page 4, in line 27, strike all the square brackets and strike "C".
25
26 On page 5, in line 5, strike beginning with ", THE GREEN" in line 5 down through and including
27 "AREAS" in line 6.
28
29 Also on page 5, strike lines 8 and 9 in their entirety.
30
31 Also on page 5, in line 10, strike all the square brackets and strike "4".
32
33 Also on page 5, in line 11, strike all the square brackets and strike "5".
34
35 Also on page 5, in line 12 strike all the square brackets and strike "6".
36
37 Also on page 5, in line 14, strike all the square brackets and strike "7".
38
39 Also on page 5, in line 16, strike all the square brackets and strike "8".
40
41 Also on page 5, in line 17, strike all the square brackets and strike "9".
42
43 Also on page 5, in line 19, strike all the square brackets and strike "10".
44
45 Also on page 5, in line 20, strike all the square brackets and strike "D".
46
47 On page 6, strike lines 1 through 3 in their entirety.
48

Office of the County Auditor
Auditor's Analysis

Council Bill No. 78-2021

Introduced: October 4, 2021

Auditor: Michael A. Martin

Fiscal Impact:

The proposed changes to Section 16.1204(c)(2) and Section 16.1204(d)(3) of the Howard County Code will require additional work to be performed by the applicant's consultant. According to the Director of the Department of Planning and Zoning (DPZ), this will require additional hours of work performed by DPZ staff to review the evidence provided by the consultant; however, the extent of the additional work required by DPZ cannot be determined at this time.

Purpose:

The purpose of this legislation is to:

- Add new definitions to the Forest Conservation Ordinance,
- Establish a "look-back" provision for the disturbance of certain trees,
- Reduce the forest threshold diameter from 30 inches to 24 inches, and
- Change the on-site forest retention priorities to include the Green Cultural Trail, Targeted Ecological Areas, and trees within cemeteries or historic districts that are at least 12 inches in diameter at 4.5 feet above ground.
 - Currently, only specimen trees with a diameter of at least 30 inches are protected by a Forest Conservation Plan.

Other Comments:

The Director of DPZ anticipates that the below plan statuses will be exempted from the changes in the proposed legislation:

- Signed preliminary or preliminary equivalent sketch plans
- Approval letters for a final plan (minor subdivision or re-subdivision)
- Signed site development plans

Submitted plans that do not meet the above criteria when this bill goes into effect will be subject to the parameters of the new legislation.



HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2013 Voice/Relay

Calvin Ball
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December 14, 2021

The Honorable Dr. Opel T. Jones
Chair, Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

Re: Veto – CB78-2021

Dear Chairperson Jones:

First and foremost, I want to acknowledge our shared efforts to address a mutually identified loophole in our code that allows for the removal of priority retention trees prior to entering the development process. This loophole allows bad actors to avoid what we collectively consider to be the spirit and intent of the Forest Conservation Act, with limited and insufficient repercussions for what is broadly considered to be bad behavior.

We have placed an emphasis on preserving healthy tree cover across our County since taking office and have collaborated with the County Council to make progress on this objective. Our update to Howard County's Forest Conservation Act in 2019 was the result of a lengthy deliberative process with the Council, where the standards of our regulations were considered as we sought to bring our Act into compliance with State law and strengthen environmental regulation. Due to the constructive dialogue that we collectively engaged in throughout this process, we were able to successfully update our Act for the first time since the 1990s, passing what is now widely regarded as the strongest Forest Conservation Act in the State.

Since this summer, we have all explored the best approach to continue our work and close a loophole that allows for the removal of priority retention trees prior to entering the development process, with several pieces of legislation filed (CBs 56, 57, 64, 78, 79 and 89) that reflect differing strategies to address this issue. I asked the County Council to support CB64-2021 in September, outlining an approach to address this issue outside of the Forest Conservation Act, since the loophole that we collectively sought to close is the protection for trees prior to the application of the Act.

Last Monday, a majority of the County Council voted against CB64, opting instead to approve CB89, which aims to address this issue through a five-year "look-back" and enhanced penalty provisions within the Forest Conservation Act. While I am disappointed that CB64 failed, I am hopeful that CB89 will successfully close this loophole and end the practice of clearing priority retention trees prior to entering the development process.

HOWARD COUNTY COUNCIL
2021 DEC 14 A 11: 55



HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

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However, I have significant concerns about the passage of CB78-2021, which after an amendment that struck the vast majority of the originally proposed legislation just two full business days prior to last Monday's vote on this bill, solely reduces the on-site retention threshold for trees subject to the Forest Conservation Act from 30 inches to 24 inches. In addition to this reduction being wholly unrelated to the issue of clearing priority retention trees prior to the development process, this legislation establishes an arbitrary retention threshold that is inconsistent with both State law or that of any neighboring jurisdiction, fails to account for the desired removal of non-native and invasive trees, and creates a significant administrative burden to our staff that at no point has been publicly considered or discussed by the County Council.

By reducing the on-site retention threshold to 24 inches, CB78 establishes a new, arbitrary standard for tree retention without adequate justification or consideration for the species or health of the trees to be retained. The State standard for protected trees under the Forest Conservation Act is 30 inches diameter at breast height. We are not aware of any other jurisdiction in Maryland that applies a stricter standard and are unclear about why 24 inches would be the appropriate threshold. Without any scientific justification for this adjustment in diameter, this change is arbitrary and undermines the effort put into creating our improved Forest Conservation Act.

Additionally, CB78 provides no consideration for non-native or invasive trees, which were never intended to be preserved under the Forest Conservation Act. The Forest Conservation Manual requires that forest conservation easements be managed to minimize the presence of non-native and invasive trees because these trees jeopardize the health of forest habitats. Requiring analysis and approval for the removal of invasive trees not only runs counter to the guidance of the Forest Conservation Manual, but also creates an incentive to leave invasive species in place and plan projects around them, rather than removing them to the benefit of their natural surroundings. CB78 neglects to consider any of these factors or their impacts on the larger ecosystem.

Moreover, CB78 results in significant administrative impacts that were not contemplated by the County Council at the time of last Monday's vote, as the amount of staff time needed to inspect, review, and process forest conservation plans and requests for tree removal is anticipated to increase by at least 50% for each plan and request. Our Department of Planning and Zoning's (DPZ) Development Inspection Group (DIG) consists of two FTEs who, amongst other duties, conduct field visits for environmental review. CB78 is projected to potentially triple the number of trees that need to be field verified, creating a significant burden for staff currently responsible for field visits for environmental review, and potentially a fiscal impact due to the possible need to secure additional staff to perform this function.



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Further, by lowering the on-site retention threshold from 30 inches to 24 inches, CB78 is projected to significantly increase the number of alternative compliance requests for tree removal. This increase in alternative compliance requests will contribute to DIG positions dedicating over half their time to ensuring compliance with CB 78 and will impact the workload of reviewers across multiple departments. Such a significant shift in duties warrants a review to ensure that required work duties remain consistent with their job descriptions and may leave other duties covered by these employees unfulfilled due to the increase in time in the field or reviewing alternative compliance requests.

Based on the above stated reasons and pursuant to Charter Section 209, I wish to inform the County Council of my decision to veto CB78 as amended. I believe that CB78 is completely unrelated to objective of preventing the removal of priority retention trees prior to the development process, arbitrary and inconsistent with the intent of the Forest Conservation Act and creates a significant administrative burden that was not adequately contemplated by the County Council.

I recommend that we collectively allow CB89 sufficient time to take effect and evaluate whether it is achieving our shared goals of deterrence and forest retention at a later date. If issues persist, I look forward to working with the Council to define the problem and identify an appropriate legislative solution, as necessary.

Thank you for your attention to this matter.

All my Best,

Calvin Ball
Howard County Executive

Cc: Christiana Mercer Rigby, County Council Vice Chair
Deb Jung, County Councilmember
Liz Walsh, County Councilmember
David Yungmann, County Councilmember
Michelle Harrod, Council Administrator

CB78-2029

Sayers, Margery

From: Susan Garber <buzysusan23@yahoo.com>
Sent: Monday, October 25, 2021 7:19 PM
To: CouncilMail
Subject: In support of CB78 & CB79-2021
Attachments: HCCA-Testimony_CB78-79-2021-Forest_Conservation.pdf

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

Dear Council Members,

Please see the attached testimony on behalf of the Howard County Citizens Association and the Savage Community Association in strong support of CB 78 and CB 79.

Susan Garber



HCCA

Howard County Citizens Association

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

Testimony in support of CB78 and CB79-2021

October 18, 2021

Susan Garber, North Laurel/Savage testifying

The Howard County Citizens Association, HCCA, and the Savage Community Association wish to congratulate and thank Councilwoman Liz Walsh for her tireless, continuous efforts to bring about positive outcomes through further strengthening of our Forest Conservation regulations. **Bill numbers may change..... but our commitment to testifying in support of her proposed actions remains unchanged.....** because like her, we embrace the critical importance of our natural environment.

We won't waste our breath or your time repeating our testimony from CB-56 and CB 57-2021. You can watch it on tape. But we do ask that you use the time we've just saved you to hold thoughtful discussions at work sessions and to at least match **our** time researching the fine points of the legislation with an open mind. Please take the time to get all of your questions answered so that you can better see the wisdom in taking the steps proposed. Then take the time to re-examine your loyalties: are they to your constituents or your backers?

We can only hope that all council members will see the Forest AND the (Specimen) Trees. Demonstrate through your support of these bills that this entire governing body genuinely cares about the protection of our environment --and hence our lives, as well as that of our children and grandchildren.

Please begin now, even before the new General Plan comes before you, to prioritize asking 'How much forest cover and open space do we need for a quality and healthful existence, free from the ravages of climate change?' rather than 'How many additional housing units do we think we need?'

If Stu Kohn, president of HCCA was delivering this testimony he would undoubtedly include a relevant thought-provoking quote from a notable and wise historical or political figure. Tonight I want to leave you thinking about a quote from a famous **builder**. If you haven't had children or grandchildren in your life in the last 2 decades you may not be familiar with him. I'm referring to '*Bob the Builder*'. (Not Bob Villa) Day after day, thru 20 TV seasons (185 episodes) Bob and his stop motion animated **pals** worked **together to solve problems** and to **get things done with a positive attitude**. So to any who may throw up roadblocks or readily make excuses for failing to legislate and achieve the highest level of forest retention and conservation in Howard County, I offer the signature words of Bob the Builder: "Can we do it? Yes we can?"

Vote YES on CB 78 and 79.

CB 64-2021

Sayers, Margery

From: Jung, Deb
Sent: Monday, October 25, 2021 10:36 AM
To: Sayers, Margery
Subject: FW: Testimony and Information RE CB64
Attachments: Testimony on CB 64 TG FINAL 10 23 21.pdf

From: tngiovanis@aol.com <tngiovanis@aol.com>
Sent: Saturday, October 23, 2021 3:53 PM
To: Jung, Deb <djung@howardcountymd.gov>
Cc: Williams, China <ccwilliams@howardcountymd.gov>
Subject: Testimony and Information RE CB64

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

Councilmember Jung:

I write in Opposition to CB64 which negatively affects me and my property.

While I do not reside in your district, the points I have raised in the attached also negatively impact residents of your district.

Since 1984, I have lived on a 100% wooded 10-acre lot (which I have preserved as much as possible) but which requires maintenance. While I do not have much grass, my maintenance is trees. They need to be trimmed and sometimes preventively or preemptively removed. CB64 would hamper and unnecessarily complicate this.

Also, CB64 has many administrative/implementation/tactical aspects which have not been thought through which are raised in the attached.

I hope you will find the attached helpful as you consider this legislation and hopefully make changes thereto.

Please feel free to contact me if you have any questions.

Cell 240 606 8054

Theodore Giovanis

The Jayne Koskinas Ted Giovanis Foundation
TeamTGM
T.Giovanis & Company, LLC

P.O. Box 130, Highland, MD 20777-0130
For overnight mail - 7141 Deer Valley Road, Highland, MD 20777-9513

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Testimony in Opposition to CB 64
Enhanced Protection and Retention of Certain Areas
by
Ted Giovanis
7141 Deer Valley Road, Highland, MD 20777
410 531 1969

I write to testify in **OPPOSITION** to CB64 that would expand or extend the rules governing limitations on or prevention of the cutting or removing of trees to be applicable to private property. The reasons for my opposition are varied and are summarized immediately below and explained thereafter.

EXECUTIVE SUMMARY

This legislation artificially groups residential homeowners with lots larger than 1.0 acre in size, with commercial property owners of all sizes, and then proceeds to entirely prohibit their cutting of specimen trees unless proven by the property owner with clear and convincing evidence to the satisfaction of the County, to be diseased or dead. This artificial grouping of disparate interests and the virtual prohibition of the removal of large trees by homeowners results in unnecessary controls over the homeowners without a clearly articulated purpose. The loophole this bill is attempting to close (developers skirting the Forest Conservation Act) results in an absolute prohibition of cutting specimen trees by homeowners whereas the Act itself is intended to minimize—not prohibit—clearing or alternating of forest areas. By “closing the loophole”, the innocent homeowner is subjected to restrictions far exceeding those placed on developers under the Forest Conservation Act. This outcome is a regulatory overreach and the taking of individual property rights without rationale or compensation.

Reasons for Opposition:

- *Protect private property rights.* Private property rights are the foundation of all our rights and are constitutionally enshrined. When property rights are lost, the loss of other rights inevitably follow. Property rights include the rights to use the property, earn income from the property, transfer the property to others, and enforce property rights. Maintenance of one’s private property to preserve its value and realize personal enjoyment is a fundamental right and must be preserved. However, this proposal discourages maintenance and preservation of one’s property which includes cutting, trimming and removal. This legislation would prevent such.
- *The solution must fit size of the problem.* The legislation pursues a goal by creating a very complex and costly system for both the property owners and the County when what is truly needed is a targeted, focused effort to address a few perceived bad apples.

- *The County must respond timely.* There is no requirement for the County to respond timely which is particularly relevant when there is imminent danger. A 15-day required response time is appropriate under normal circumstances, but a much shorter response is appropriate when there is imminent danger in which case the application requirement must be waived.
- *Personal experience indicates failed implementation.* I have lived in the County since 1984 on a fully wooded 10-acre lot. I am opposed to arbitrary removal and cutting of trees generally. However, trimming and removal of trees to protect structures and assure unbroken ingress and egress is a must. This legislation literally destroys this flexibility by subjecting me and similarly situated property owners to an unwarranted application process.
- *Rigid rules will alienate property owners.* The proposal will be very difficult if not impossible to administer and impossible for unsuspecting property owners to understand and comply. My personal experience in dealing with County bureaucrats who administer and apply rigid rules has not been positive, and I suspect this will be worse.
- *There will be unintended consequences that the County has not foreseen.* One example will be confusion about what is or is not a specimen tree. However, will citizens understand this and be able to comply. Examples of unintended consequences that could occur include cutting specimen trees before passage of this bill, converting residential property to agricultural use (tree farms) to permit indiscriminate cutting (and lower property taxes), or cutting trees before they reach specimen size to avoid future restrictions.

Because of the above stated reasons, I **OPPOSE** the expansion of the proposed regulation requiring permission for tree removal and maintenance for private properties for the above stated reasons. If this legislation moves forward, it must include modification.

If you have questions about my testimony or find you need further clarification, please do not hesitate to contact me.

Sayers, Margery

From: Carolyn Parsa <carolyn.parsa@mdsierra.org>
Sent: Monday, October 25, 2021 8:28 AM
To: Walsh, Elizabeth; Ball, Calvin; Jones, Opel; Rigby, Christiana; Jung, Deb; Yungmann, David; CouncilMail; Feldmark, Joshua
Subject: Support for CB64 with amendments 1, 3 & 4

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

Howard County Council Members,

The Sierra Club supports CB64 with amendments 1, 3 & 4 and would like you to vote it off the table and pass the bill. We support amendment #1 as it strengthens the bill. We support amendment #3 as it changes the definition of a specimen tree to measure 24 inches in diameter or greater (instead of 30 inches), thus including and protecting younger trees. We support amendment #4 as it would allow for the removal of invasive trees and we are glad to see that attention will be given to the process of identifying and evaluating these invasive trees before authorizing their removal. Additionally, we do not support Amendment #2, as it would raise the minimum plot size to have many more properties exempt from following this law, and result in more trees that are allowed to be removed.

Thank you for continuing to work on forest conservation.

Carolyn Parsa
Sierra Club Howard County Chair



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

I, Susan Garber, have been duly authorized by
(name of individual)

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

County Council regarding CB78-2021 to express the organization's
(bill or resolution number)

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

Printed Name: Susan Garber

Signature: _____

Date: October 18, 2021

Organization: the Howard County Citizens Association, HCCA

Organization Address: P.O. Box 89 Ellicott City, MD

P.O. Box 89 Ellicott City, MD

Number of Members: 500

Name of Chair/President: Stu Kohn

*This form can be submitted electronically via email to
councilmail@howardcountymd.gov no later than 2 hours prior to the start of the
Public Hearing.*



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

I, Susan Garber, have been duly authorized by
(name of individual)

the Savage Community Association to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB78-2021 to express the organization's
(bill or resolution number)

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

Printed Name: Susan Garber

Signature: _____

Date: 10/18/2021

Organization: Savage Community Association

Organization Address: P.O. Box 222 Savage 20763

P.O. Box 222 Savage 20763

Number of Members: 550

Name of Chair/President: Tori Diersen

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.

October 18, 2021

Re: OPPOSITION TO CB78 – New Forest Conservation Definitions

Dear Counsel Chair Walsh and Members of the Howard County Council:

The Howard County Chapter of the Maryland Building Industry Association (MBIA) writes in opposition to Council Bill 78, which would create a lookback provisions for the disturbance of certain trees as well as revise the definition of specimen trees. The Forest Conservation Act of Howard County was repealed and reenacted in December 2019 with an effective date of February 5, 2020. A revised Forest Conservation Manual was approved by Resolution in February 2021. Since these Acts and Manuals were only recently passed, it is an unreasonable burden on builders and developers to now consider additional changes to the Forest Conservation Act. Both the County and the industry has only begun to implement these new rules and their isn't a track record that indicates that changes are necessary at this time.

This legislation would create a largely unenforceable legislative mandate that would change the definition of a specimen tree to be more broadly defined and retroactively apply these standards to trees that have been cleared in the last 5 years. Retroactively applying this standard would endanger multiple projects and homeowners that have complied with current standards and place projects in which considerable funds and manpower have already been attributed. Additionally, the practicality of determining which trees over the past 5 years that have been cleared met the standard outlined in the bill would be difficult, if not impossible to determine and constitute a considerable investment in time and funds, and which will ultimately lead to an inaccurate count of specimen trees since there is not a practical way to determine which trees met the standard prior to being cleared.

We do not agree that Howard County's definition of specimen trees should be different than that defined in the State Forest Conservation Act. In our opinion, the change would have unintended consequences and probably lead to development rights being further constrained. The fiscal impact of further limiting development has not properly been analyzed especially since the Variance process was only recently changed in the 2019 legislation.

For these reasons, MBIA respectfully requests the Council vote against Council Bill 56-2020. Thank you for your attention to this vital issue and your continued support of the local home building industry. If you have any questions about these comments and would like to discuss MBIA's position further, please do not hesitate to contact me at iambruso@marylandbuilders.org or (202) 815-4445.

Best regards,

Isaac Ambruso, Director of Legislative and Regulatory Affairs

Cc: Counsel Chair Elizabeth Walsh
Vice-Chair Opel Jones
Councilmember Deb Jung
County Executive Calvin Ball
Councilman David Yungmann