
From: STUART KOHN <stukohn@verizon.net>
Sent: Saturday, June 29, 2024 9:33 AM
To: via Howard-Citizen
Cc: CouncilMail
Subject: Two Proposed Bills for Potentially a Better Government

Follow Up Flag: Follow up
Flag Status: Flagged

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

FYI,

Good morning.

If one believes in trying to obtain perhaps a better means of transparency, oversight and accountability then there are two proposed Bills which will be introduced this Monday evening to establish the position of an Inspector General (IG) in our County. One should consider testifying at the Council's Public Legislative Hearing on Monday, July 15 starting at 7PM. Signup will be available on the County website after Bills / Resolutions are introduced on 1 July. You can go to https://apps.howardcountymd.gov/Combined_Council_Testimony?isLegislationTestimony=true to register to testify.

Currently the IG position exists in Baltimore City / County, Montgomery and Prince George's, etc. The Bills are CB47 and 48-2024. CB47 is the Inspector General –Establishment - an Act establishing the Office of the Inspector General; specifying the selection, term, qualifications, and responsibilities of the Inspector General; providing for the referral of certain matters; specifying the funding and powers of the Office of the Inspector General; requiring certain reports; establishing the Inspector General Advisory Board; specifying the composition, powers, and duties of the Inspector General Advisory Board; specifying the selection, term, and responsibilities of the Inspector General Advisory Board; and generally relating to the Office of the Inspector General. See the following for details - <https://apps.howardcountymd.gov/olis/api/Documents/LegislationDocument?documentId=36507>.

CB48 is an Act supporting the creation of the Office of the Inspector General; amending the process for whistleblower complaints; repealing certain duties of the County Auditor; amending the composition of the Howard County Ethics Commission; and generally relating to supporting the Office of the Inspector General. To review this Bill go to <https://apps.howardcountymd.gov/olis/api/Documents/LegislationDocument?documentId=36508>.

Stu Kohn
HCCA President

Sent from my iPhone

From: Christopher Gran <christopher_gran@yahoo.com>
Sent: Thursday, July 11, 2024 6:24 PM
To: CouncilMail
Subject: Yes to establishing OIG office in Howard County

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

Dear Councilmembers,

I am in favor of establishing an Office of Inspector General in Howard County to investigate and uncover instances of fraud, waste, and abuse of taxpayer dollars.

Accountability and transparency in government is of paramount importance to ensure that taxpayer dollars are properly being spent. Establishing an OIG office would be a significant step toward more firmly achieving that objective.

Regards,

Christopher Gran

[Yahoo Mail: Search, Organize, Conquer](#)

From: Alan Schwartz <amsesq48@aol.com>
Sent: Friday, July 12, 2024 1:12 PM
To: CouncilMail
Subject: Inspector General Proposed Bills

Follow Up Flag: Follow up
Flag Status: Flagged

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

Dear Members of the County Council;

I write regarding Council Bills 47-2024 and 48-2024 creating the Office of the Inspector General (the “IG”), the IG Advisory Board, and amending the process for whistleblower complaints.

First, please note that I have been a resident of Howard County since 1973; I have been a lawyer for more than 50 years during which time I worked as a Howard County Solicitor and advisor to the County Executive; I have worked for a Federal agency (the IRS); I have served on many boards and community organizations; I have practiced law in multiple US jurisdictions and in foreign jurisdictions; and I worked for a Federal whistleblower and US Senator who were extensively engaged in examining alleged inappropriate Federal government actions by the Department of Defense and Defense contractors. Not only were multiple violations found to have existed but that whistleblower is credited for the establishment of the Federal Whistleblower Act. I bring those experiences to this discussion of the Council bills.

Next, let me say I support wholeheartedly the concept of an IG and an Advisory Board. My experiences both inside and outside of government have convinced me that the office of an IG is an effective deterrent for those who are even considering violating laws and ethical standards. Perhaps more importantly, even in our community I have observed conduct by various officials that I have reason to believe was inappropriate if not in violation of law. For example, I have seen where officials have acted without regard to arguable conflicts of interest, where county rules and regulations have not only been ignored, but even when specifically questioned they have been ignored, where county laws have either been set aside for arguably no good reason, and when the Howard County Ethics Commission has failed to prevent inappropriate conduct. In my humble opinion, none of the foregoing should have occurred absent compelling and legitimate reasons. As a result, I believe CB 47-2024 and CB-48-2024, at least in concept, are necessary if only to act as a reminder that the law needs to be adhered to by both persons in government and out of government.

I understand that the proposed bills have been taken principally from other jurisdictions. But without any lack of respect for those jurisdictions, and without listing all of my concerns, I believe certain provisions of the bills should be reconsidered and possibly revised. I list these as follows:

1. The appointment of the IG should be confirmed by the County Council. This is to ensure that the County Council is in agreement with the Advisory Board selection.
2. The IG should serve for only a term of 4 years, 6 years being too long.
3. Not only should the Advisory Board have the right of removal of the IG, the County Council should also have that right.
4. A vacancy in the office of the IG for 180 days before action is taken is too long. Sixty days ensures that the office will not fall behind in its duties.
5. The reference to “gross” waste and abuse is too nebulous and creates the potential that the IG would lack subject matter jurisdiction. Waste and abuse occurs even when the abuse is at a lower bar than “gross.”
6. With regard to the jurisdiction of the IG, the bill states the IG “may” investigate allegations. Arguably that should say “shall” investigate.
7. Reference in the same section (22.1203(c)(3)) to a “member” of a board or commission should be expanded to the board or commission itself. And that section should add any person or entity doing business, or intending to do business, with the County.
8. The referral of matters section should not only include the State’s Attorney, but also the Office of the Attorney General, the State Prosecutor, and the US Attorney’s Office to ensure no matters are ignored for lack of proper jurisdiction.
9. As noted previously, the appointment of the IG in Section 22.1300 should require County Council approval.

10. The Advisory Board membership provision should be revised to allow at least one-half (1/2) of the members to be directly appointed by the County Council.
11. Requiring members of the Advisory Board to reside in different councilmanic districts potentially limits the most qualified applicants from appointment if they live in the same district.
12. Requiring a group of “professional members” to be one-half (1/2) of the Advisory Board members could backfire since it is sometimes those persons who ignore public perceptions and concerns. But if there is such a group, lawyers (not now included) should be listed.
13. The qualifications section might consider requiring all Advisory Board members to be Howard County residents. And arguably it should not disallow Federal government employees, many of whom have excellent work backgrounds and no connection to County, Municipal or State governments.
14. If any Advisory Board members are appointed by the County Council, then the nomination section needs to be revised.

The above comments are certainly not intended to be an exhaustive list of concerns. They are meant to open a dialogue. But please do not conclude that the comments are intended to suggest that the County should not have an IG and an Advisory Board. It should, and the creation of the office of the IG and the Advisory Board needs to be utilized fully and promptly to ensure we maintain the integrity of our local government.

Thank you for the opportunity to comment and I hope you can support such
legislation.

Sincerely,

Alan M. Schwartz

6421 Cardinal Lane

Columbia, Md. 21044

amsesq48@aol.com

From: ROBERT WEST <robwest@comcast.net>
Sent: Friday, July 12, 2024 12:25 PM
To: CouncilMail
Subject: Inspector General

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

Councilmembers -

I heartily support Liz Walsh's proposed legislation to establish an Inspector General's office in Howard County. News reports from nearby jurisdictions have shown the merit behind such a group. The biggest positive point I can attribute to these stories is that the greatest opposition always seems to come from officeholders who have been investigated for various potential inefficiencies or outright unethical behavior that would have otherwise gone unnoticed. I'm certain the office would pay for itself.

I implore you to please back Ms. Walsh in her efforts and pass this proposal when it comes to a vote later this month.

Robert West
Ellicott City

From: [ROBERT WEST](#)
To: CouncilDistrict1@howardcountymd.gov
Subject: Inspector General
Date: Friday, July 12, 2024 10:59:11 AM

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

An outstanding proposal. I hope you've already garnered support from others in the council. I can't attend the hearing but is there any other way to show support? E-mail other council members? E-mail Ball?

Bob West
Ellicott City

From: [Alan Schwartz](#)
To: CouncilDistrict1@howardcountymd.gov
Subject: Re: Inspector General Proposed Bills
Date: Monday, July 15, 2024 2:46:44 PM

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

Liz ,

You are welcome. Hope they are helpful. And I realize there are Charter issues regarding appointments.

But despite enabling powers of the Charter for citizen board appointments by the Executive in section 404 (under section 206 is language of 404 an “express limitation”?), is there a way to use Council powers under section 214 specifically authorizing investigations into the affairs of the county (including “cause to be made” language) as an arguable basis for creating Council power allowing for Council appointments to an “investigative” body? Also see section 205. Just some preliminary thoughts that would need more thorough examination/research.

Regards,
Alan
Sent from my iPhone

On Jul 15, 2024, at 12:22 PM, Walsh, Elizabeth <ewalsh@howardcountymd.gov> wrote:

Allan: Thank you so much for these! I love the Council confirming appointment one particularly, and am hopeful that that alone could move your Councilperson to finally support the bill. As you might imagine, we’ve been trying to draw the line between too much political influence and too much autonomy, while also complying with a Law proscription on how much appointing the Council can do before a charter amendment. Your insight is invaluable, and Wendy’s already got resultant amendments in process. Thank you, thank you, thank you.

Liz Walsh

Howard County Council, District 1
[410.313.2001](tel:410.313.2001)
[3430 Court House Drive](#)
[Ellicott City, MD 21043](#)

From: Alan Schwartz <amsesq48@aol.com>
Sent: Friday, July 12, 2024 1:11:57 PM
To: CouncilMail <CouncilMail@howardcountymd.gov>
Subject: Inspector General Proposed Bills

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Dear Members of the County Council;

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First, please note that I have been a resident of Howard County since 1973; I have been a lawyer for more than 50 years during which time I worked as a Howard County Solicitor and advisor to the County Executive; I have worked for a Federal agency (the IRS); I have served on many boards and community organizations; I have practiced law in multiple US jurisdictions and in foreign jurisdictions; and I worked for a Federal whistleblower and US Senator who were extensively engaged in examining alleged inappropriate Federal government actions by the Department of Defense and Defense contractors. Not only were multiple violations found to have existed but that whistleblower is credited for the establishment of the Federal Whistleblower Act. I bring those experiences to this discussion of the Council bills.

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result, I believe CB 47-2024 and CB-48-2024, at least in concept, are necessary if only to act as a reminder that the law needs to be adhered to by both persons in government and out of government.

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Thank you for the opportunity to comment and I hope you can support such legislation.

Sincerely,

Alan M. Schwartz
6421 Cardinal Lane
Columbia, Md. 21044
amsesq48@aol.com

From: Mr. Drew <mrdrew@gmail.com>
Sent: Monday, July 15, 2024 4:24 PM
To: CouncilMail
Subject: Drew Roth Testimony in support of the Inspector General Bills CB47 and CB48
Attachments: IG Testimony.pdf; SP-19-002_Lawyers_Hill_Overlook_Pass_Schools.pdf; F-23-016TC-final.docx.pdf; BA 796D Michelle and Bradley Kline D&O.pdf

Follow Up Flag: Follow up
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My personal testimony, with supporting documents, is attached below.

I am also testifying in person on behalf of the Progressive Democrats of Howard County. The attached testimony is not the PDHC testimony, it is mine alone. I do not know the position of PDHC regarding my testimony.

Drew Roth
Elkridge.

Testimony in support of the IG Bills, CB47 and CB48.

If Howard County had an Inspector General, it would provide a much more efficient and effective way for county residents to address the continuing unlawful behavior of the Department of Planning and Zoning, as well as providing a deterrent to future unlawful behavior.

Currently, DPZ willfully disregards development regulations to facilitate new development. I will use the Lawyers Hill Overlook (LHO) development as an example. This is project F-23-2016.

Lawyers Hill Overlook continues to be an active project on the books, even though it does not have an approved forest conservation plan. In fact, a valid request for the necessary forest conservation waiver has never been submitted. The deadline for doing so has long passed. The approval of the Preliminary Equivalent Sketch Plan was contingent upon an approved forest conservation plan, and so the project does not have an approved PESP either. The project is still active because DPZ erroneously and unlawfully issued a Technically Complete letter even though these requirements had not been met.

35. THIS PRELIMINARY EQUIVALENT SKETCH PLAN APPROVAL IS CONTINGENT UPON SUBMISSION OF A FOREST CONSERVATION PLAN THAT COMPLIES WITH THE APPLICABLE REQUIREMENTS, INCLUDING OBTAINING ANY NECESSARY WAIVERS OR APPROVED ALTERNATIVE COMPLIANCE. THE PRELIMINARY FOREST CONSERVATION PLAN DOES NOT PRESENTLY COMPLY UNLESS WAIVERS OR ALTERNATIVE COMPLIANCE ARE GRANTED. APPROVAL OF THIS PLAN (SP-19-002) DOES NOT CONSTITUTE GRANTING OF ANY WAIVERS OR ALTERNATIVE COMPLIANCE. THE FINAL FOREST CONSERVATION PLAN AND ANY ASSOCIATED WAIVERS OR ALTERNATIVE COMPLIANCE REQUESTS WILL BE FULLY EVALUATED UPON FINAL PLAN SUBMISSION.

TITLE SHEET
LAWYERS HILL OVERLOOK
LOTS 1 THRU 17 AND OPEN SPACE LOT 18
5819 LAWYERS HILL ROAD
DEED REFERENCE: L.14508 F.484
TAX MAP NO.: 32 GRID NO.: 20 PARCEL NO.:13
ZONED R-ED
FIRST ELECTION DISTRICT HOWARD COUNTY, MARYLAND
SCALE: AS SHOWN DATE: DECEMBER, 2019
SHEET 1 OF 8
SP-19-002

Here are the details:

On April 10, 2023, DPZ granted a waiver to the Forest Conservation law for the LHO development. Owners of multiple neighboring properties appealed this waiver (Case BA-796D).

On August 1, 2023 DPZ issued a letter informing the LHO property owners that they had failed their last schools capacity test, and the final plan must be submitted by December 1, 2023. If a plan was not submitted, the project would be terminated, any housing allocations would be taken back, and any development on that land must start the process from the beginning. This letter is attached.

On August 2, 2023, DPZ sent the property owners a letter saying the LHO project was “technically complete”, which established a deadline of January 29, 2024 for final recordation of the plat. This letter is attached.

On August 4, 2023, the Hearing Examiner issued a decision to the appeal by neighboring property owners of the LHO Forest Conservation Waiver.

The decision (Case BA-796D, decision is attached):

- * Agreed with every argument put forward by the plaintiffs that the waiver was improperly granted.
- * Nullified the waiver.
- * Found that the waiver was never properly signed by the Director of DPZ as required. (The signer who signed as the Director of DPZ did not hold the position)
- * Found that the waiver sought a variance to a nonexistent law.
- * Remanded the matter back to the relevant officials for reconsideration.

Instead of following the direction to remand, and submitting a valid waiver application to the actual relevant law, the developer chose to appeal. The appeal is pending.

The developer was informed by virtue of the Hearing Examiner’s decision that the forest conservation waiver was for a non-existent law. The developer was given the opportunity to correct that in a timely manner. The developer chose not to do so.

As a result, the LHO project at this time:

- * Has never filed a valid application for a forest conservation waiver.
- * Has no valid preliminary sketch plan.
- * Has no valid final plan, which was due on December 1, 2023
- * Has no valid final plat, which was due on January 29, 2023
- * But does have a bogus “Technically Complete” letter.

And so the project is still active, like a zombie waiting to arise from the grave. Even though many months have passed since the deadline for these requirements to be met.

So how would an Inspector General improve matters? The same neighbors who brought the challenge to the forest conservation waiver filed another appeal to the technically complete

letter, so that the APFO requirement to have a complete final plan delivered by December 1st would be enforced. This is expensive and time consuming. It would be far more efficient for all stakeholders if the challenge to the unlawful technically complete letter could be addressed to an Inspector General.

The issue in question is very straightforward: "Show me the valid application for a forest conservation waiver under the relevant law." No valid waiver application means no waiver, no approved preliminary sketch plan, and no technically complete letter. The APFO requirement that projects proceed in a timely manner would be enforced.

Drew Roth
Elkridge



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

August 1, 2023

Edmund Pollard & Joyce Adcock
6349 Basket Switch Road
Newark, MD 21841

RE: SP-19-002 Lawyers Hill Overlook

Dear Sir/Madam:

On July 31, 2023, the Howard County Council approved Resolution CR128-2023, which adopted a new APFO School Capacity Chart. As a consequence of the Council's action, the status of the above referenced subdivision plat has been altered.

By letter dated January 28, 2020, this Department granted **17 tentative housing unit allocations** for this subdivision in the Established Communities Planning Area for the year 2021. Within that letter, you were advised that your project did not pass the test for school adequacy.

With the Council's adoption of Resolution CR128-2023, a new School Capacity Chart was created. Your project, located in the Northeast School Region, the Elkrige Elementary School District, the Elkrige Landing Middle School District, and the Guilford Park High School District has now failed its fifth test and, by default has now passed a preliminary assessment of the Adequate Public Facilities Ordinance test for school region, elementary school district, middle school district, high school district. Plan processing may now resume.

The final plan must be submitted for all the development approved on the preliminary equivalent sketch plan within **four** months from the date of this letter (**on or before December 1, 2023**).

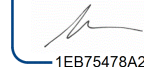
If the final plan is not received by the milestone date, your plan approval will become null and void and your project will lose its tentative housing unit allocations in accordance with Section 16.144(g) and/or (k) of the Howard County Subdivision and Land Development Regulations.

If you miss the milestone date, any plans resubmitted must be processed as a new preliminary equivalent sketch plan. You will be required to comply with all plan submission requirements and regulations in effect at the time of resubmission. This Department cannot consider requests for extensions of time for your project beyond the deadlines and milestones established by the Adequate Public Facilities Ordinance.

If you have any questions, please contact Jill Manion at (410) 313-2350 or email at jmanion@howardcountymd.gov.

Sincerely,

DocuSigned by:



1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/jam

Cc: Research
DED
Fisher, Collins and Carter
Don Reuwer, Land Design and Development



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

August 2, 2023

Edmund M. Pollard and Joyce E. Adcock
6349 Basket Switch Road
Newark, MD 218341

RE: F-23-016, Lawyers Hill Overlook

Dear Mr. Pollard and Ms. Adcock:

The Subdivision Review Committee has determined the Final Subdivision Plans for Lawyers Hill Overlook consisting of 1 residential lot, 1 open space lot and 5 bulk parcels on 8.76 ± acres of land located on Lawyers Hill Road in the First Election District of Howard County, Maryland, to be **technically complete**, subject to the plan markups and comments in ProjectDox. You may submit the electronic final plan original drawings to the Department of Planning and Zoning for signature once the comments have been complied with. Confirmation of resolution of comments from those agencies listed must accompany your electronic submission. If you have any questions regarding a specific comment, please contact the review agency prior to submitting the electronic original site development plan. If, in responding to those comments, design changes are made which could affect another SRC agency, you are advised to consult with the appropriate agency prior to the submission of the electronic originals to the Department of Planning and Zoning for signature.

STEP 1: SUBMISSION OF FINAL CONSTRUCTION DRAWINGS ELECTRONIC ORIGINALS

Howard County Department of Planning and Zoning requires final plans to be signed electronically. Additional information on the 'Electronic Signature Process' can be found on our website at <https://www.howardcountymd.gov/planning-zoning/development-process-and-procedures>.

1. Submission of the electronic originals for the final plan road construction drawings for signature approval within **60 days** of the date of this letter (**on or before October 1, 2023**).
2. Payment to the *Director of Finance of Howard County* for distribution copies of the approved road and storm drainage construction plans.

Fee per sheet	Fee	\$ 3.00
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3. Print fee for final signed mylar supplemental plan originals.

Fee per sheet	Fee	\$5.00
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4. Submission of a **Forest Conservation** cost estimate for surety to the Department of Planning and Zoning, concurrent with the submission of construction plan originals.
5. Submission of a cost estimate for the **Landscape Surety** to the Department of Planning and Zoning, concurrent with the submission of construction plan originals.

6. Submission of one draft copy of the **Homeowners Association's** "Declaration of Covenants" with the appropriate information clipped and highlighted per the final plat application checklist, and all required supplemental language added (see DPZ comments).
7. Submission of the original public water and sewer system construction plans to the Development Engineering Division, for signature approval within **60** days of the date of this letter (**on or before October 1, 2023**).

The electronic original construction drawings must be submitted and receive signature approval, and the public water and sewer allocation must be approved for this project, prior to the completion of the developer's agreement, payment of fees, posting of financial obligations, and acceptance of the final plat originals for recordation. Once you have submitted original construction plans, you are advised to contact Real Estate Services concerning the requirements for the Developer's Agreement.

Compliance with all conditions and/or corrections is required before the electronic original will be accepted for signature approval. Payments can be mailed to the Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 21043 or dropped in the bin labeled 'DLD' at the Department of Planning and Zoning Public Service Counter located on the first floor of the George Howard Building. Please submit a copy of this letter with your payment submission as it will serve as the submission checklist. DPZ staff will contact you once payment is received to review your PDox submission for completion prior to initiating the electronic signatures process. Electronic originals and supporting documentations addressing outstanding comments should be uploaded to the 'Final PDFs for Signature' and the nested support document folder prior to this meeting.

You will be notified by letter when the construction drawings have been signed, and sewer and water allocations have been granted. That letter will grant formal approval of final plans and authorize you to proceed to Steps 2 and 3.

STEP 2: COMPLETION OF DEVELOPER'S AGREEMENTS AND PAYMENT OF FEES

1. Submission of a Developer's Agreement to the Department of Public Works, Real Estate Services Division, and posting of financial surety for construction of roads, stormwater management, and storm drainage within **120** days of the date of this letter (**on or before November 30, 2023**). (Bond estimate may be obtained from the Department of Public Works). Real Estate Services requires a minimum of three (3) weeks to execute the agreement(s). This should be anticipated by the developer in scheduling submittal of the plat originals.
2. Submission of a Declaration of Covenants and Maintenance, and Right of Entry Agreement for Private Stormwater Management Facilities – Rain Gardens (Bio-Retention Facilities) to the Department of Public Works, Real Estate Services Division within **120** days of the date of this letter (**on or before November 30, 2023**). Contact the Real Estate Services Division directly at 410-313-2330 regarding this requirement. Real Estate Services requires a minimum of three (3) weeks to execute this agreement. This should be anticipated by the developer in scheduling submittal of the plat originals.
3. Submission of a Developer's Agreement to the Department of Public Works, Real Estate Services Division, for the installation of public water and public sewerage and posting of financial surety for construction within **120** days of the date of this letter (**on or before November 30, 2023**). (Bond estimate may be obtained from the Department of Public Works). Real Estate Services requires a minimum of three (3) weeks to execute the agreement(s). This should be anticipated by the developer in scheduling submittal of the plat originals.
4. Submission of a Major Facilities Agreement to the Department of Public Works, Real Estate Services Division, for intersection mitigation and posting of financial surety for construction within **120** days of the date of this letter (**on or before November 30, 2023**).
5. Landscape surety must be included in the Developer's Agreement executed with the Department of Public Works, Real Estate Services Division.

6. Although this project will not require that the developer post surety for the forest conservation retention easements, it will be necessary for the developer to execute a Deed of Forest Conservation Easement. Contact the Real Estate Services Division of the Department of Public Works (410-313-2330) regarding this requirement. Real Estate Services requires a minimum of 3 weeks to prepare the deed. This should be anticipated by the developer in scheduling submittal of the plat originals.
7. The Deed of Forest Conservation Easement, the **Forest Conservation Agreement**, and surety for **on-site** mitigation must be executed with the Real Estate Services Division of the Department of Public Works prior to submission of the final plat originals. This agreement will require a **2-year** growing season obligation.
8. Contact the Real Estate Services Division of the DPW concerning the preparation and execution of a deed for the dedication of public road right-of-way for road widening. This deed must be executed prior to the submission of the plat originals.
9. Contact the Real Estate Services Division of the DPW concerning the preparation and execution of a perpetual floodplain easement granting the County a right of entry to the floodplain area.
10. Payment to the Department of Public Works, Real Estate Services Division, of the balance of the Department of Public Works, Engineering Review Fee. The fee is based on the final construction cost estimate approved by DPW. It must be paid within **120** days of the date of this letter (**on or before November 30, 2023**).
11. Payment to the Department of Public Works, Real Estate Services Division, of the fee-in-lieu of sidewalk construction. The fee is based on the final construction cost estimate.
12. Submission of the final plat digital information shall be submitted to DPZ for the purpose of early assignment of new street addresses at the same time as submission of your DPW, Developer’s Agreement documents or a minimum of 3 weeks prior to submission of the final plat original. Please see the digital information requirements contained under Step 3 of this letter.

The above conditions must be complied with prior to submission of final plat originals and within **120** days of the date of this letter (**on or before November 30, 2023**). The Department of Public Works will provide a written receipt indicating the above conditions have been met. The receipt from Real Estate Services Division **must** accompany the submission of the record plat originals.

STEP 3: SUBMISSION OF THE MYLAR FINAL PLAT ORIGINALS

Once all of the requirements in Steps 1 and 2 have been completed, the original plat and “Plat of Easement” or “Plat of Forest Conservation Easement”, if applicable, may be submitted for signature with the following. **Please note, Howard County Department of Planning and Zoning requires final plats to be submitted on Mylar material. The drawings are not processed electronically.**

1. Payment to *Director of Finance of Howard County* of the following fees, concurrent with the submission of the original plats for signature approval. Bring this letter and fees to the Department of Planning and Zoning to obtain the required receipts.

Storm Drainage Construction, Section 16.133	Fee	\$2,487.00
SAP Acct #4040090003-1300-1300000000-PWPW000000000000-431900		

Distribution copies of recorded plat:		
Original Plat (<u>per sheet</u>)	Fee	\$15.00

2. You will be required to execute a Developer’s Agreement which will include **\$44,100** of surety to ensure the completion of your landscaping obligations for this project. This Department will perform an inspection to verify installation of the required plant materials. The inspection fee required for this project is **\$220.50**. This fee must be paid to **SAP acct number 1000000000-3000000000-PWP2000000000000-432105** at the time the plat originals are submitted for signatures and recordation (check payable to the Director of Finance).

3. You will be required to execute a Forest Conservation Agreement which will include **\$6,316.20** of surety for **on-site mitigation** to ensure the completion of your Forest Conservation obligation for this project. This Department will perform an inspection to verify compliance with the approved Forest Conservation Plan. The inspection fee required for this project is **\$400**. This fee must be paid to **SAP acct number 10000000000-5000000000-RPRP000000000000-439990** at the time the plat originals are submitted for signatures and recordation (*check payable to the Director of Finance*).

4. Payment to the *Clerk of the Court* of the following fees, concurrent with the submission of the plat originals for signature approval. Bring this letter and fees to the Department of Planning and Zoning to obtain the required receipts
 - a. A check made payable to the *Clerk of the Court* for the cost of recording plats.

Recording fee for plat (<u>per sheet</u>)	Fee	\$5.00
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 - b. A properly prepared and completed maintenance agreement for the shared must be submitted with the correct recording fee (**\$60.00** for a document with up to 9 sheets, or **\$115.00** for a document with 10 or more sheets) with the submission of the plat original. Checks should be made payable to the Clerk of the Court. This document shall be recorded by our staff concurrent with the recording of the plat original.

 - c. The finalized and fully executed “Declaration of Covenants” for the HOA must be submitted with the correct recording fee (\$60.00 for a document with up to 9 sheets, or \$115.00 for a document with 10 sheets or more) at the time the plat originals are accepted for signature approval and recordation. Checks should be made payable to the Clerk of the Court. This document shall be recorded by our staff concurrent with the recording of the plat original.

 - d. The finalized and fully executed deed(s) conveying open space lot 2 to the Homeowner’s Association and one paper copy must be submitted with the correct recording fee (**\$60.00** for a document with up to 9 sheets, or **\$115.00** for a document with 10 sheets or more) at the time the plat originals are accepted for signature approval and recordation. Checks should be made payable to the *Clerk of the Court*. At the time it is submitted, this document, which will be recorded by DPZ staff with the plat original, must bear all required approval stamps from the Department of Finance.

The developer must contact the State Department of Assessments and Taxation to obtain a “State of Maryland Land Instrument Intake Sheet” and the Howard County Department of Finance to obtain an “Application for Lien Certification” for each of the lots/parcels being conveyed to (i.e., owned by) the Homeowners’ Association. These completed forms, all associated processing/recordation fees and deed copies must be submitted to this Division concurrently with the original deed conveying the property to the Homeowners’ Association. **Please bring a copy of this letter with you when you visit the Department of Finance. Obtaining the completed State of Maryland Land Instrument Intake Sheet and the Application for Lien Certification is the developer’s responsibility.**

- e. The applicant is advised that any associated documents submitted to DPZ for recording with the final plat original which includes the word, “EASEMENT” in the document title heading must be submitted directly to the Howard County Department of Finance for validation processing for recordation taxes prior to submission to DPZ. At the time any “EASEMENT” documents are submitted, this document, which will be recorded by DPZ staff with the plat original, must bear all required approval stamps from the Department

of Finance. This step will be the responsibility of the applicant to complete before the DPZ submission appointment.

- f. Concurrently with the submission of the plat originals for signature approvals and recordation, submit the original Moderate Income Housing Unit (MIHU) Agreement and MIHU Covenants as required in accordance with Section 13.402 of the County Code. Coordinate the preparation of these documents with the Department of Housing and Community Development (DHCD) at (410) 313-6318. Provide documentation to DHCD a minimum of four (4) weeks prior to the plat submission. This should be anticipated by the developer in scheduling submittal of the plat originals. Prior to their submission, the Agreement must be signed by the DHCD and the Covenants must be signed by both the DHCD and the County’s Office of Law.

PLEASE BE ADVISED THAT ALL FEES PAYABLE TO THE CLERK OF THE COURT MUST BE INCLUDED ON A SINGLE CHECK. MULTIPLE CHECKS AND/OR CASH CANNOT BE ACCEPTED.

- 5. **THE FOLLOWING INFORMATION SHALL BE SUBMITTED TO DPZ FOR THE PURPOSE OF EARLY ASSIGNMENT OF NEW STREET ADDRESSES AT THE SAME TIME AS SUBMISSION OF YOUR DPW, DEVELOPER’S AGREEMENT DOCUMENTS TO DPW, REAL ESTATE SERVICES DIVISION OR A MINIMUM OF 3 WEEKS PRIOR TO SUBMISSION OF THE FINAL PLAT ORIGINAL.** This information is required prior to submission of the final plat original to allow early assignment of new street addresses for entry in the County’s GIS system to assist the Department of Inspections, Licenses and Permits for permit purposes. However, please note that if any of the digital file information changes between the time of this early submission and when the final plat original is submitted, a second updated version must be resubmitted at the time of the final plat original submission.

Submission of parcel and right-of-way boundaries in a digital format meeting the following County standards:

Digital Plat Submissions

- AutoCAD **version 2013** is the required format for submissions.
- Use **NAD 83 feet** as coordinate system.
- Please provide at least two North-East coordinate reference points.
- Do not rotate drawing. North should be straight up.
- All nodes should snap together. No overshoots or undershoots. No circles at property corners.
- All lines must be entered using coordinate geometry, not digitized.
- Please do not send elements other than those outlined below. (No north arrow, notes, vicinity map, etc.)
- Set up layers as described in the following table:

AutoCAD Format					
No.	Layer’s Name	Description	Color	Line Type	Text Style
1	Lot Line	Lot Lines	Red	Solid	No text
2	Parcelrow	Parcel Outline and Right Of Way	Yellow	Solid	No text

Note: Font = Simplex, Height = 16.0, Width Factor = 1

This information is to be emailed to Carrie Vogel at cvogel@howardcountymd.gov and Mike Saunders at msaunders@howardcountymd.gov. The file should be named with the subdivision title and the DPZ file

number.

If you have any questions, please contact Carrie Vogel of the Department of Planning and Zoning at (410) 313-4420 or email cvogel@howardcountymd.gov

6. **THE FOLLOWING INFORMATION SHALL BE SUBMITTED TO DPW FOR THE PURPOSE OF INCORPORATION INTO THE COUNTY'S GIS ASSET MANAGEMENT SYSTEM AT THE SAME TIME AS SUBMISSION OF YOUR DPW DEVELOPER'S AGREEMENT DOCUMENTS TO DPW, REAL ESTATE SERVICES DIVISION OR A MINIMUM OF 3 WEEKS PRIOR TO SUBMISSION OF THE FINAL PLAT ORIGINAL.** This information is required prior to submission of the final plat original to allow early incorporation of new storm drain system and stormwater management infrastructure in the County's GIS system for asset management and State reporting purposes. However, please note that if any of the digital file information changes between the time of this early submission and when the final plat original is submitted, a second updated version must be resubmitted at the time of the final plat original submission.

Digital Storm Drain System and Stormwater Management Data Submissions

- PDF of the final plans
- GIS geodatabase, GIS shapefiles, or AutoCAD dxf with associated completed Excel file are the required formats for submissions. See www.howardcountymd.gov/SWM for templates.
- Use NAD 83 feet as coordinate system.
- Do not rotate drawing. North should be straight up.
- All nodes should snap together. No overshoots or undershoots.
- All lines must be entered using coordinate geometry, not digitized.
- Please do not send elements other than those outlined below. (No north arrow, notes, vicinity map, etc.).
- If using AutoCAD, set up layers as described in the following table (geometry colors are the developer's choice:

AutoCAD Format			
No.	Layer's Name	Description	Geometry Type
1	BMP	BMP Point Locations	Point
2	BMP Labels	BMP Unique ID Labels	Text
3	BMP Drainage Area	BMP Drainage Area Polygons	Polygon
4	Outfall	Outfall Point Locations	Point
5	Outfall Labels	Outfall Unique ID Labels	Text
6	Outfall Drainage Area	Outfall Drainage Area Polygons	Polygon
7	Manholes	Manhole Point Locations	Point
8	Manhole Labels	Manhole Unique ID Labels	Text
9	Inlets	Inlet Point Locations	Point
10	Inlet Labels	Inlet Unique ID Labels	Text
11	Pipes	Pipe Lines	Line
12	Pipe Labels	Pipe Unique ID Labels	Text
13	Easements	Easement Polygons	Polygon

This information is to be emailed to Christine Lowe at csolowe@howardcountymd.gov. The file should be named with the subdivision and DPZ file number. If you have any questions, please contact Christine Lowe of the Department of Public Works at 410-313-0522 or csolowe@howardcountymd.gov.

7. Submission of a completed Forest Conservation Data Summary **[attached]**.
8. Submission of a receipt from the Department of Public Works, Real Estate Services Division, verifying the payment of all fees/sureties as identified in Step 2 of this letter.
9. Submission of a receipt from the Department of Public Works, Real Estate Services Division verifying that the required deed for the dedication of public road right-of-way for road widening has been completed.
10. Submission of a receipt from the DPW, Real Estate Services Division, verifying that the required Developer's Agreement/Declaration of Covenants and Maintenance, and Right of Entry Agreement for Private SWM Facilities – Rain Gardens (Bio-Retention Facilities) has been executed.

Submission of the final plat for signature and recordation is required within 180 days of the date of this letter (on or before January 29, 2024).

Please be advised that a maintenance agreement for the private access place must be recorded with the plat original. This document will be prepared for you by the Real Estate Services Division of the Department of Public Works (RES). The completed documentation and required recordation fees will be forwarded by RES to this Department. You should contact that agency directly regarding the preparation and execution of the necessary document(s).

Please be advised that the finalized and fully executed Declaration of Covenants and Maintenance, and Right of Entry Agreement for Private SWM Facilities – Rain Gardens (Bio-Retention Facilities) must be submitted by the DPW, Real Estate Services Division, to DPZ prior to the signature approval of the plats by the Planning Director. You should contact that agency directly concerning the preparation and execution of the necessary document(s).

The above conditions must be complied with within the mandated 60 day, 120 day, and 180 day deadlines. If any submission deadline is missed, the plan becomes null and void, all previous approvals will be rescinded and your project will lose its tentative allocations in accordance with Section 16.144 of the Howard County Subdivision and Land Development Regulations. If the plan is voided, resubmission of this project may be at the preliminary equivalent sketch plan stage.

You will be required to comply with all plan submission requirements and regulations in effect at the time of resubmission. This Department cannot consider requests for extensions of time for your project beyond the deadlines and milestones established by the Adequate Public Facilities Ordinance.


Submission of the mylar plat originals can be mailed to Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 20143 or dropped in the bin labeled 'DLD' at the Department of Planning and Zoning Public Service Counter located on the first floor of the George Howard Building.

When recorded, the signed original plat will be retained on file in this Department (DPZ). Please refer to the letter dated on August 1 2023, regarding the approved APFO school capacity chart to obtain the APFO milestone date to submit the final plan for the bulk parcels created by this plat in accordance with Section 16.1106(d) and (h)(2)(i) of the Subdivision Regulations.

The tentative allocations assigned to this project will become permanent upon recordation of the final subdivision plat. Although the allocations are assigned to a specific year, once the plats are recorded you may apply for site development plan approval and/or building permits at any time.

If you have any questions, please contact Jill Manion at (410) 313-2350 or email at jmanion@howardcountymd.gov.

Sincerely,

DocuSigned by:

1EB75478A22B49A...

Anthony Cataldo, Chief
Division of Land Development

AC/jam

Enclosures: DLD, DED, SCD, DPW-WS, DED-WS

cc: Research

Don Reuwer – Land Design and Development

Frank Manalansan – Fisher, Collins and Carter

Sang Oh – Talkin and Oh

Cathy Hudson

Drew Roth

Wade Sapp

Kristy Mumma

Routing for ES Originals Review Email:

DLD – Anthony Cataldo, (Jill Manion)

DED – Chad Edmondson, (Jayesh Pancholi)

SCD – (Alex Bratchie)

Highways – Mark Kovach

FOREST CONSERVATION DATA SUMMARIES

Forest Conservation Data Summary charts are available on the DPZ website at: <http://www.howardcountymd.gov/DPZ/DPZDocs/FOCODATA.pdf>

OPTION 1: FEE-IN-LIEU		FOREST CONSERVATION DATA SUMMARY	
File Number:		Project/Subdivision Name:	
Fee-In-Lieu Amount:	Net Tract Area:	Cash Receipt No. *:	
12-digit Watershed Number:			
Comment: Fee-In-Lieu for _____ acres of Reforestation or Afforestation (specify which is applicable)			

* To be completed by DPZ staff

OPTION 2: EXEMPT/DOI		FOREST CONSERVATION DATA SUMMARY	
File Number:		Project/Subdivision Name:	
12-digit Watershed Number:			
Regulation Section: _____ (provide Regulation reference and a brief description of the applicable exemption or DOI)			

OPTION 3: PREVIOUSLY ADDRESSED (including use of a FC Bank)		FOREST CONSERVATION DATA SUMMARY	
File Number:		Project/Subdivision Name:	
12-digit Watershed Number:			
Comment: Addressed by _____ (provide file number and project/subdivision name)			

OPTION 4: ON-SITE/OFF-SITE PLANTING AND RETENTION		FOREST CONSERVATION DATA SUMMARY			
File Number:		Project/Subdivision Name:			
Net Tract Area <i>Net tract area under review</i>	Area of Floodplain unforested forested total		Existing Forest <i>Forest in net tract area minus floodplain</i>	Cleared Forest All forest cleared including floodplain	
Retained Forest <i>Retained forest minus floodplain</i> onsite offsite total	Planted Forest onsite offsite total		Long Term Protection <i>Total amount of forest planed into LTP</i>	Surety Amount Posted <i>Total amount of surety posted</i>	
In-Lieu Fees Amount Collected	Forested Stream Buffers Linear Length Acreage		Planted Stream Buffers Linear Length Acreage	Amount of Forest Retained but not within an Easement	
12-digit Watershed Number:					

OPTION 5: FOREST MITIGATION BANK		FOREST CONSERVATION DATA SUMMARY			
File Number:		Project Name:			
Net Tract Area	Area of Floodplain unforested forested total		Retained Forest <i>Retained forest minus floodplain</i>	Planted Forest	
Forested Stream Buffers Linear Length Acreage	Planted Stream Buffers Linear Length Acreage		Long Term Protection <i>Total amount of forest planed into LTP</i>	Surety Amount Posted <i>Total amount of surety posted</i>	
12-digit Watershed Number:					

MICHELLE AND BRADLEY KLINE, : BEFORE THE
ET AL : HOWARD COUNTY
Appellants : BOARD OF APPEALS
v. : HEARING EXAMINER
HOWARD COUNTY DEPARTMENT OF
PLANNING AND ZONING IN WP-23-055 : BA Case No.796D

Appellee

.....
.....

DECISION AND ORDER

On July 12, 2023, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, conducted a hearing on the administrative appeal of Michelle and Bradley Kline, Drew Roth, Kristy and Robert Mumma, and G.A.L.H. Association, Inc (Appellants). Appellants are appealing the Department of Planning and Zoning’s April 10, 2023 letter attaching the Alternative Compliance Final Decision Action Report (Department of Planning and Zoning (DPZ), Department of Recreation and Parks, and Office of Community Sustainability) approving WP-22-055, Applicants request for Alternative Compliance at 5819 Lawyers Hill

Road, Elkridge, Maryland. The appeal is filed pursuant to §130.0.A.3 of the Howard County Zoning Regulations (HCZR).

The Appellants certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the Hearing Examiner Rules of Procedure. Mr. G. Macy Nelson, Esq. appeared on behalf of Appellants. Drew Roth testified on behalf of the Appellants. Councilmember Walsh presented primarily jurisdictional issues. Mr. Christopher DeCarlo, Esq. appeared on behalf of the property owners/Applicants Edmund Pollard and Joyce Adcock. Frank Manalansan (engineer) testified on behalf of the property owners.

Appellants presented the following Exhibits:

1. Preliminary Sketch Plan
2. Application for Alternative Compliance
3. Tree Plan
4. DPZ letter attaching Final Decision Action Report
5. Aerial
6. Highlighted properties boundaries
7. Addresses for highlighted properties
8. a. Colorized topography map
 - b. Non-colorized GIS topography map

9. Stream and stream buffer
10. Soils Map
11. Tree Survey
12. Tree Spread Sheet
13. Alternative Site Plan Preserving Specimen Trees

BACKGROUND

The approximately 8.76-acre property is located on the east side of Lawyers Hill Road, north of its intersection with Montgomery Road, east of I-95 and south of its intersection with Summer Home Terrace, also identified as 5819 Lawyers Hill Road, Elkridge, Maryland (the Property). The Subject Property lies in Council District 1, and the 1st Election District, and is identified as Tax Map 32, Grid 20, Parcel 13, in the R-ED (Residential: Environmental Development) Zoning District. The Property is unimproved. S-18-005 is currently under review for the Property.

On November 10, 2022, the applicants requested Alternative Compliance from §16.1205(a)(7) of the Howard County Code in accordance with §16.1216. The Alternative Compliance Application appears flawed from the very beginning as the cited regulation from which relief is being sought, §16-1205(a)(7), does not exist. Section 16.1205(a)(3), Forest Retention Policies, requires the retention of trees with a diameter of 30 inches or greater

and it is from this Section that the Applicants perhaps meant to seek relief but failed to do so.

WP-22-055 is requesting the removal of 11 Specimen Trees:

ST589-White Oak-38" DBH-Dead

ST590-White Oak-50" DBH-Fair Condition (based on DRP inspection)

ST591-Red Oak-52" DBH- Fair Condition (based on DRP inspection)

ST594-White Oak-40" DBH-Dead

ST597-Black Oak-44" DBH-Fair to Poor Condition (based on DRP inspection)

ST600-Red Maple-34" DBH-Fair to Poor Condition

ST601-Tulip Poplar-35" DBH-Fair to Good Condition (based on DRP inspection)

ST602-Tulip Poplar-37" DBH-Fair to Good Condition (based on DRP inspection)

ST603-Tulip Poplar-40" DBH-Fair to Good Condition (based on DRP inspection)

ST604-Tulip Poplar-40" DBH-Dead

ST606-Tulip Poplar-38" DBH-Fair to Good Condition (based on DRP inspection)

On April 10, 2023, by cover letter from DPZ, WP-22-055 was unanimously approved. "Each Department hereby determines the applicant has demonstrated to the Directors satisfaction that strict enforcement of the above-cited regulation (§16.1205(a)(7)) would result in an unwarranted hardship." (Alternative Compliance Final Decision Action Report) This approval was subject to three conditions. The Alternative Compliance Final Decision Action Report is effectively unenforceable as it has purported to grant alternative compliance to a nonexistent regulation. The Report perpetuates the error contained in the

Applicants Alternative Compliance Application. By Administrative Appeal Petition dated 4/28/23 Appellants appealed the approval of the request for Alternative Compliance to remove 11 Specimen Trees.

During the July 12, 2023 evidentiary hearing, Councilmember Walsh raised a jurisdictional issue that neither party had been previously aware of and time was requested to prepare Memoranda of Law in accordance with the Board of Appeals Hearing Examiner Rules of Procedure, Rule 10.3. At the conclusion of the evidentiary hearing the request to submit Memoranda of Law was granted and both parties submitted their Memoranda of Law timely, the last received August 1, 2023.

JURISDICTION

WP-22-055 is a request for Alternative Compliance to remove 11 specimen trees filed pursuant to § 16.1216, Subtitle 12, Forest Conservation Act, of the Howard County Code. §16-1216(b) provides

A variance to the provisions of this subtitle shall be considered and approved or denied in writing by the Directors of the Department of Planning and Zoning, the Administrator of the Office of Community Sustainability, and the Director of the Department of Recreation and Parks.

By letter dated April 10, 2023 the Department of Planning and Zoning informed the Applicants that on March 31, 2023 “the Director of Planning and Zoning, Director of the Recreation and Parks (sic) and Administrator of the Office of Community Sustainability considered and approved your request...”. Appended to this letter is the Alternative Compliance Final Decision Action Report signed by Brian Shepter, Acting Director,

Department of Planning and Zoning, Raul Delerme, Director, Department of Recreation and Parks, and Joshua Feldmark, Administrator, Office of Community Sustainability.

Amy Gowan was the previous Director, Department of Planning and Zoning. Pursuant to testimony provided during the evidentiary hearing, Ms. Gowan left her Director position on March 30, 2023. Brian Shepter was named Acting Director, Department of Planning and Zoning on April 4, 2023. These facts were not contested.

The uncontroverted facts in the record support a finding that on March 31, 2023 there was no Director, Department of Planning and Zoning, to participate in the meeting to discuss WP-22-055. The Final Decision Action Report was signed by the Acting Director who was not appointed until April 4, 2023. As the Final Decision Action Report is in violation of §16-1216(b), it is null and void and this matter must be remanded to the Department of Planning and Zoning. However, in an abundance of caution, the Alternative Compliance requirements will be addressed herein.

STANDARD OF REVIEW

The right to appeal an administrative decision is wholly statutory. Howard County v. JJM, Inc., 301 Md. 256, 261, 482 A.2d 908, 910 (1984) (citing Maryland Bd. V. Armacost, 286 Md. 353, 354-55, 407 A.2d 1148, 1150 (1979); Criminal Injuries Comp. Bd. V. Gould, 273 Md. 486, 500, 331 A.2d 55, 64 (19751); Urbana Civic Ass'n v. Urbana Mobile Vill., Inc., 260 Md. 458, 461, 272 A.2d 628, 630 (1971).

Pursuant to Howard County Code § 16.1215, appeals to the Board of Appeals of decisions made pursuant to the Director of Planning and Zoning's administrative

decision-making authority shall be heard in accordance with the Board of Appeal's Rules of Procedures. Subtitle 2.-Rules of Procedure of the Board of Appeals, Section 2.210 provides that administrative appeals such as the instant appeal are *de novo* and the burden of proof is on the appellant to show that the action taken by the Administrative Agency was clearly erroneous, and/or arbitrary and capricious, and/or contrary to law. Per Howard County Code § 16.302(a) (jurisdiction of Hearing Examiner), when a matter is authorized to be heard and decided by the Board of Appeals, the matter will first be heard and decided by a Hearing Examiner. Hearing Examiner Rule of Procedure 10.2(c) assigns the burden of proof in an appeal from an administrative agency decision of showing by substantial evidence that the action taken by the administrative agency was clearly erroneous, arbitrary and capricious, or contrary to law. See also, Hearing Examiner Rules of Procedure, Rule 10.2.(c)

In a *de novo* (meaning as new) appeal, the role of the Hearing Examiner is akin to a trial court, and the appeal may be a contested case, in which the evidence is adduced, and the Hearing Examiner is the trier of fact awarded deference on appellate review as the Examiner saw the witnesses and the evidence firsthand. Appellants burden of proof is to provide substantial evidence that the action taken by the administrative agency was clearly erroneous, arbitrary and capricious, or contrary to law.

APPLICABLE LAW

Section 16.1205. - Forest retention priorities.

(a) *On-Site Forest Retention Required.* Subdivision, site development, and grading shall leave the following vegetation and specific areas in an undisturbed condition.

* * * * *

3) State champion trees, trees 75 percent of the diameter of state champion trees, and trees 30 inches in diameter or larger.

Section 16.1216. - Variances.

(c) Consideration of a variance requested under this section shall include a determination as to whether an applicant has demonstrated to the satisfaction of each Department that enforcement of this subtitle would result in unwarranted hardship. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an unwarranted hardship to the applicant. The applicant shall:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;**
- (2) Describe how enforcement of these regulations would deprive the landowner of rights commonly enjoyed by others in similar areas;**
- (3) Verify that the granting of a variance will not adversely affect water quality;**
- (4) Verify that the granting of a variance will not confer on the applicant a special privilege that would be denied to other applicants;**
- (5) Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;**
- (6) Verify that the condition did not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and**
- (7) Provide any other information appropriate to support the request.**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The first finding for Approval of Alternative Compliance pursuant to §16.1216(c)(1) requires the **Applicant** to satisfy the uniqueness prong of the variance test. Section 16.1216(c)(1) requires a showing of uniqueness. "Maryland cases have used the terms 'unique,' 'unusual,' and 'peculiar' to describe [the uniqueness] step in the variance analysis." *Dan's Mountain Wind Force, LLC v. Allegany Cnty. Bd. of Zoning Appeals*, 236 Md. App. 483, 494 (2018). Section 16.1216, states that a variance to the tree conservation provisions may only be granted if the Subject Property has "special conditions peculiar to the property." § 16.1216(c)(1). Thus, § 16.1216(c)(1) requires the Applicants to satisfy the uniqueness prong of the variance test to show that the Subject Property has "special conditions peculiar to the property."

The uniqueness prong of the variance test requires the Applicants to prove, and the Directors to find, that the alleged special conditions on the Subject Property are not shared by other nearby properties - that "the plight of the owner [is] due to unique circumstances and not to general conditions in the neighborhood." *Marino v. City of Balt.*, 215 Md. 206, 219 (1957). "It must be shown that the hardship affects the particular premises and is not common to other property in the neighborhood." *Easter v. Mayor and City Council of Baltimore*, 195 Md. 395,400 (1950). "[T]he property whereon structures are to be placed (or uses conducted) [must be] - in and of itself - unique and unusual in a manner different from the nature of surrounding properties such that the

uniqueness and peculiarity of the subject property causes the zoning provisions to impact disproportionately upon that property." *Cromwell v. Ward*, 102 Md. App. 691, 694 (1995); see also *Dan's Mountain Wind Force, LLC v. Allegany Cty. Bd. of Zoning Appeals*, 236 Md. App. 483,492 (2018).

The Applicants and the Directors allege that the property is unique because it has limited road frontage, because of the existing topography of the site, and because the Subject Property is restricted by wetlands. See Appellants' Exhibit 2, pg. 6; Appellants' Exhibit 4, pg. 2. However, the Applicants failed, in both their Statement of Justification (which the Directors used as the basis of their Final Decision Action Report), and later during the evidentiary hearing, to actually analyze properties nearby as required by §16.1216(c)(1).

Similarly, the Directors failed to compare the Subject Property with any other property and thus failed to demonstrate that the alleged special conditions are in fact unique or peculiar to the Subject Property. Therefore, the Directors' decision to approve the requested variance is contrary to law because nothing in the record satisfies the proposition that the special conditions identified by the Applicants are

unique or peculiar conditions compared to surrounding properties.

When the Subject Property is actually compared to other nearby properties, it is clear that the conditions identified by the Applicants are not in fact unique or peculiar to the Subject Property.

The Applicants assert, without analyzing any other property, that the Subject Property is unique because it is long and narrow and therefore, has limited frontage on a public road. However, Appellants' Exhibit 6 shows clearly that narrowness and limited frontage on a public road is not unique to the Subject Property. Instead, many other properties nearby are similarly narrow and have similarly limited frontage on a public road.

The Applicants assert, without analyzing any other property, that the Subject Property is unique because of its topography. However, Appellants' Exhibit 8 shows clearly that there is nothing unique about the Subject Property's topography when compared to nearby properties.

Lastly, the Applicants assert, without analyzing any other property, that the Subject Property is unique because the property is restricted by wetlands on site. However, Appellants' Exhibit 9 provides clear evidence that other nearby properties have similar, if not more, development constraints from water resources (like streams and stream buffers).

Appellants provided additional evidence demonstrating that the Subject

Property is not in fact unique. For example, Appellants' Exhibit 10, demonstrates that the soils on the Subject Property are no different from other nearby properties.

Appellants' Exhibit 11 demonstrates that there is nothing unique or peculiar about the number or distribution pattern of the specimen trees on the Subject Property compared to three nearby parcels.

The uniqueness prong of the variance test is designed to determine whether a property, due to inherent characteristics of the land itself, will be impacted differently by the County's ordinances than other properties nearby. When many properties share the same constraints, the properties are not unique, and any variance request must be denied. Here, the evidence clearly demonstrates that the conditions identified by the Applicants and the Directors are not unique to the Subject Property but instead shared by many other properties in the area. Therefore, as a threshold matter, the Directors' decision was contrary to law because the Subject Property is not in fact unique.

Assuming *arguendo* the shape of the Subject Property, the topography, and the existence of small wetlands on the edge of the Subject Property was nominally "unique," the variance still should not have been granted because nothing on in the record satisfies the proposition that those conditions have a meaningful nexus to the relief sought. As the Court opined in *Dan's Mountain*:

[T]he unique aspect of the property must relate to-have a nexus with-the aspect of the zoning law from which a variance is sought. Without the nexus requirement, a motivated sophist could always find similarities or differences between any two properties so as to defeat or support a uniqueness finding. Every property is similar to every other property in some respect (for example, "there are some living things on this

property"). And every property can be distinguished from every other property in some other respect (for example, "this property contains exactly x number of trees and y number of woodrats"). Rather than semantic tricks, the proper question is whether the property is unique in the way that this particular aspect of the zoning code applies to it.

236 Md. App. at 496. A unique aspect of a property is only unique in the context of a variance application if that particular unique aspect is what is preventing adherence to the ordinance.

Where a property's physical peculiarities do not cause the landowner to suffer disproportionately due to application of the zoning enactment in question, the property is not "unique" in the law of variances. For example, if a property has physical characteristics that might justify variance relief from drainage or sewage regulations, those attributes probably would have no bearing on how the property is affected by an ordinance establishing the maximum height for a fence.

Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County, 407 Md. 53, 82 (2008). A variance needs a nexus between the relief sought and the unique aspect. In this case, such a nexus does not exist for every tree requested for removal.

Here, there are essentially three categories of trees that the Applicants request permission to remove - trees to accommodate the central location of the proposed access to the Subject Property in the northernmost portion of the site (ST606, ST603, ST602, and ST601), trees to accommodate the proposed density on the Subject Property (ST590, ST591, and ST600), and trees that the Applicants assert are in poor condition and potentially hazardous (ST589, ST594, ST597, and ST604). Thus, the Applicants must show that the alleged need to remove each of the 11 specimen trees relates to, or has a nexus with, the alleged uniqueness of the property.

The Applicants assert that they must have the proposed access drive centrally located along Lawyers Hill Road due to setback requirements from either property. However, setback requirements are not characteristics of the land - instead they are uniform Countywide and therefore not unique to the Subject Property. Furthermore, the setback requirements are far more onerous for public roads, like the one proposed by the Applicants, than they are for private driveways. There is no nexus between any of the alleged unique features on the Subject Property and the Applicants' need to remove ST606, ST603, ST602, and ST601 from the northernmost portion of the Subject Property. Instead, the only nexus is between the Applicants' desire to install a public road and the required setbacks applicable to public roads which apply uniformly throughout the County.

Even if the Applicants could provide evidence that the frontage on Lawyers Hill Drive is narrow in a manner unique to the Subject Property, the Applicants still must demonstrate how the alleged uniqueness of the Subject Property relates to the Applicants' request to remove the seven other specimen trees (ST590, ST591, ST600, ST589, ST594, ST597, and ST604).

None of the alleged unique features relate to Applicants' request to remove ST600, ST597, ST590, or ST591. These four trees need to be removed, according to the Directors, because they will be significantly impacted by the construction activities on the site and/or the proposed cul-de-sac. However, the central portion of the property where these trees are located is not narrow, does not have unusual topography (in fact the Applicants' expert witness testified that this portion of the

property is relatively flat), and the trees are not nearby the wetlands on the Subject Property. Thus, there is no nexus between the alleged uniqueness of the Subject Property and the Applicants' requested relief as it relates to ST600, ST597, ST590, or ST591. Instead, the only nexus is between the Applicants' desire to maximize the density on the Subject Property and the inconvenience to the Applicants of having to preserve these trees. Finally, none of the alleged unique features relate to Applicants' request to remove ST589, ST594, and ST604. The Applicants request permission to remove these trees because, according to the Applicants, they are dead. Notably, even though each of these trees are located on the edges of the Subject Property, they are still located in areas proposed for clearing to accommodate the maximum density on the Subject Property. The reasons set forth by the Applicants for why they need to remove ST589, ST594, and ST604 are not related to the alleged narrowness of the property, the topography of the property, or the small wetlands on the Subject Property.

Even assuming *arguendo* that the Applicants could have satisfied the uniqueness prong of the variance test, a variance cannot be approved unless the Applicants demonstrate that they would experience an unwarranted hardship (which is stricter than the practical difficulties test). §16-1216(c).

The Directors erroneously determined that the Applicants would experience an unwarranted hardship because "there is only one access point to the property, there is no alternative plan to reconfigure the lots, roads, driveways, parking lots, structures, SWM devices, and/or utilities that would save the trees." Appellants' Exhibit 4, pg. 6. The Applicants' and the Directors' factually inaccurate assertion that

the Applicants need to remove the specimen trees should be considered in two categories – first, the alleged need to remove the trees at the northernmost portion of the site to accommodate the proposed public road (ST606, ST603, ST602, and ST601) and second, the alleged need to remove any of the other trees on the Property to accommodate the 17 proposed lots.

The Applicants and the Directors are factually incorrect when they assert that there is no other design alternative for the access road that would preserve more trees. Indeed via letter dated January 6, 2023 the Directors requested that the Applicants **“Revise and Resubmit”** their proposal to address, among others, “Submit an alternative design exhibit that evaluates a Use-In-Common along former Pedicore Drive and avoids impacts to trees in good condition along site frontage (in particular, specimen trees #601, #602, #603, and #606) in addition to saving any additional specimen trees on site.” The Applicants refused to provide the alternative design plan as requested by the Directors.

The Appellants submitted evidence that if the Applicants pursued a design plan for 6 units along a shared, private driveway, instead of 17 units, Applicants could access the property from Lawyers Hill Drive without needing to remove any trees or, at the very least, being able to preserve the four specimen trees on the northernmost portion of the Subject Property. Appellants' Exhibit 13. Furthermore, the Applicants submitted an alternative design drawing for the access road as part of the Application.

Applicants' own drawing shows that if the Applicants pursued the alternative road layout shown in grey on their plan, Applicants would be able to preserve ST602, ST603, and even ST 604. With the alternative road design shown in green on their plan, the Applicants would be able to preserve ST606, ST601, ST602, and ST603. Furthermore, for the reasons stated *supra*, the Applicants could redesign the access using a Use-In-Common driveway, not subject to the 30-foot setback as asserted by the Applicants. Thus the alleged hardship that would result from the Applicants preserving the four specimen trees on the northern portion of the property is not a hardship supported by the evidence on the record because the Applicants could have pursued an alternative design for a private driveway that preserves all, or at least more, of the specimen trees.

Assuming *arguendo* that the Applicants could not design the access drive in a manner that preserved the four northernmost specimen trees (ST606, ST603, ST602, and ST601), the Applicants still must provide evidence demonstrating that they would experience an unwarranted hardship if Applicants were required to retain the seven other specimen trees on the site (*e.g.*, ST590, ST591, ST600, ST589, ST594, ST 597, and ST604). However, the Applicants provided no evidence to support the proposition that the Applicants would experience an unwarranted hardship if they were required to preserve those trees. Furthermore, Appellants provided evidence that the Applicants could reduce the number of lots on the site and protect each of the seven specimen trees.

Therefore, the Directors' determination that the Applicants would face an unwarranted hardship is arbitrary and capricious as it is not supported by evidence in the record.

Section 16.1216(c) states that a variance cannot be approved unless the Applicants demonstrate that they would experience an unwarranted hardship. Although Section 16.1216(c) does not define unwarranted hardship, it does clarify that "increased cost or inconvenience of meeting the requirements of these regulations does not constitute an unwarranted hardship to the applicant." § 16.1216(c). The Howard County Forest Conservation Manual provides that "an acceptable site plan will balance minimizing forest clearing with achieving reasonable use of the property, which may mean achieving less than the maximum permitted density or square footage." Howard County Forest Conservation Manual, pg. 19. In other words, "reasonable use" of the Subject Property does not inherently include achieving the maximum density allowed under the County's ordinances.

Here, the Directors determined that the Applicants would face an unwarranted hardship if the Applicants were required to preserve all, or at least more, of the specimen trees because "it would be an unwarranted hardship to require a Use-In-Common driveway in order to retain these 4 trees within the frontage access." Appellants' Exhibit 4, pg. 2. The Directors' conclusion is contrary to Howard County's laws because it directly contradicts the Ordinance which explicitly states that neither increased cost or inconvenience nor the inability to maximize density on the site

constitute an unwarranted hardship under § 16.1216(c).

Furthermore, the Directors' determination regarding the unwarranted hardship element is contrary to Maryland's common law. Under Maryland's variance jurisprudence, the phrase "unwarranted hardship" requires an applicant to show, at the very least, that an applicant's need for a variance is substantial and urgent and not merely for an applicant's convenience. See *Carney v. City of Baltimore*, 201 Md. 130, 137 (1952). The phrase "unwarranted hardship" also requires an applicant demonstrate that "unless [its] application is granted, it will be 'impossible to make reasonable use of [its] property.'" See *Montgomery Cnty. v. Rotwein*, 169 Md. App. 716, 728-29; see also *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259,282 (1999).

Here, the evidence on the record demonstrates clearly that the Applicants have other economically viable options for using the Subject Property that would preserve most, if not all, of the specimen trees on the Subject Property. For example, Appellants submitted evidence that the Applicants could develop the property with fewer lots and preserve more, if not all, of the specimen trees on the Subject Property. Appellants' Exhibit 13. Additionally, Appellants' witness, Drew Roth, explained that the Applicants could put all, or a portion, of the Subject Property into a preservation easement and receive tax credits to compensate the Applicants for the loss of development potential on the site.

Therefore, the Directors' determination that the Applicants would face an unwarranted hardship is contrary to law because the only alleged hardship is an inability

to maximize density and profit on the site and the Applicants have other economically viable options available.

Howard County's Forest Conservation Act requires property owners to "leave [specimen trees] in an undisturbed condition." § 16.1205. To remove a specimen tree, the Applicants must demonstrate that they satisfy each of the elements under § 16.1216. Neither section authorizes the Directors to approve a variance based on the health of the specimen trees.

Here, however, the only rationale provided by the Directors for their conclusion that the Applicants would face an unwarranted hardship if the Applicants retained ST604, ST594, and ST589 are that the "trees are dead... and are being requested for removal as they were located near the developable portions of the site and would propose a hazard once grading on the site occurred." Appellants' Exhibit 4, pg. 2. Similarly, with regard to ST600, ST597, ST590, and ST591, the Directors provided that these four trees "are listed in fair to poor conditions... and are located within the developable portion of the overall site." Appellants' Exhibit 4, pg. 2.

The Directors' written decision makes clear that the Directors based their conclusion that the Applicants would face an unwarranted hardship if they were required to preserve ST604, ST594, ST589, ST600, ST597, ST590, and ST591 at least in part on the health of the specimen trees. This conclusion is contrary to law because no provision in the County Ordinance permits the Directors to grant a variance based on the health of the trees. The Directors' legally erroneous conclusion

will have significant environmental impacts if affirmed because dead, and even dying trees play important roles in a forest ecosystem. The goal of the Howard County Forest Conservation Act is to "protect and maintain forest vegetation and forest areas in Howard County." § 16.1200(c). Baselessly allowing a property owner to remove specimen trees that will continue to provide ecological benefits to forested areas frustrates the stated purpose of the Forest Conservation Act and is not permitted thereunder.

CONCLUSION

The Alternative Compliance Final Decision Action Report, dated April 10, 2023, which purports to approve WP-23-055, is inherently legally flawed in that it grants Alternative Compliance to a nonexistent provision of law, it is based on a legally incorrect Alternative Compliance Application seeking relief from a nonexistent provision of law, it is adopted in violation of the mandatory review by three (3) "Directors", and Appellants have demonstrated by substantial evidence that the action taken by the adoption of the Alternative Compliance Final Decision Action Report was clearly erroneous, arbitrary and capricious and contrary to law. For all of the facts and reasoning *supra*, the Alternative Compliance Final Decision Action Report is null and void and must be remanded to the Department of Planning and Zoning for action in accordance with all laws.

ORDER

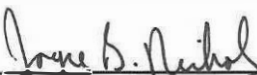
Based upon the foregoing, it is this 4th day of August, 2023, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That Appellants' appeal of the April 10, 2023 letter from the Department of Planning and Zoning attaching the Alternative Compliance Final Decision Action Report approving Alternative Compliance for the removal of 11 Specimen Trees for WP-23-055, at 5819 Lawyers Hill Road, Elkridge, Maryland, in the R-ED (Residential: Environmental Development) Zoning District, Council District 1, Election District 1, Map 32, Grid 20, Parcel 13, be and is hereby **GRANTED**, and it is further **ORDERED**, that,

The Alternative Compliance Final Decision Action Report for WP-23-055 be and hereby is **REVERSED AND REMANDED** to the Department of Planning and Zoning for action in accordance with all laws.

HOWARD COUNTY BOARD OF APPEALS

HEARING EXAMINER



Joyce B. Nichols

From: Harrod, Michelle
Sent: Monday, July 15, 2024 3:27 PM
To: Anderson, Isaiah
Subject: FW: CB 47-2024 and CB 48-2024

Follow Up Flag: Follow up
Flag Status: Flagged

Testimony for CB47 and CB48-2024

Thank you,

Michelle R. Harrod

Howard County Government
Administrator to the County Council

410-313-3111 (office)

443-398-6013 (cell)

mrharrod@howardcountymd.gov

From: Laura Mettle <lmettle@lwvmd.org>

Sent: Monday, July 15, 2024 3:25 PM

To: Harrod, Michelle <mrharrod@howardcountymd.gov>; Jung, Debra <djung@howardcountymd.gov>; Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>

Cc: Krista Threefoot <kthreefoot@lwvmd.org>

Subject: CB 47-2024 and CB 48-2024

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



July 15, 2024

To: Honorable Deb Jung and the members of the County Council

From: Laura Mettle, President, League of Women Voters of Howard County

Re: CB 47-2024, An Act Establishing the of Office of Inspector General; and
CB 48-2024, Inspector General - Companion Legislation and Code Revisions

Chairwoman Jung and members of the County Council:

The League of Women Voters of Howard County supports this legislation establishing the Office of the Inspector General and related revisions of the County Code.

Last month at our national biennial convention, the League of Women Voters of the United States passed a resolution titled, "Ethics in Government." This statement "recognizes the importance of ethics in government policies that:

- Apply broadly to elected and appointed officials, employees, and lobbyists at all levels of government;
- Prohibit conflicts of interest, use of position for political gain, corruption, nepotism, and favoritism;
- Foster transparency through financial disclosure by all elected and appointed officials;
- Support effective enforcement mechanisms; and
- Encourage ethical conduct through transparency."

Human nature being what it is, when power and money are involved, very few of us are saints, able to set aside self-interest. We need a referee to keep us honest, enforce the rules, and protect the public interest. An Inspector General is designed to be that referee and preserve public trust in government.

Creation of the Office of Inspector General will save taxpayers money, improve inefficient business practices, and help keep the government transparent and operating within the boundaries of the law. As Howard County has grown, so have our local government operations become more complex, with our total county budget growing to about \$3 billion. That's a lot to keep track of, and the likelihood of wasteful spending increases with increasing complexity. A good Inspector General will reduce waste and uncover possible fraud. An Inspector General would have subpoena power, which the County Auditor does not have, enabling them to investigate irregular incidents without necessarily involving law enforcement in the investigation.

This bill is well crafted and ensures the independence of the Inspector General by granting oversight authority to the Inspector General Advisory Board; the IG does not answer to either the County Executive or the County Council.

Of special note is the composition of the Inspector General Advisory Board, as outlined in CB 47-2024, Section 22.1300(C). This section allows, but does not require, the County Executive to nominate members with previous experience in auditing, fraud examination, government accountability, criminal justice, investigation or public administration. Perhaps the County Executive should be required to appoint at least two members of the Advisory Board; one with expertise in uncovering financial fraud, the other with expertise in criminal law. Citizens members of the Advisory Board are only required to be age 21 and, "have familiarity with ethics, law, program or performance evaluation, accounting or the duties and responsibilities of an Inspector General." We would prefer a more robust level of expertise be required of members of the Advisory Board.

A second priority would be to ensure that the Inspector General would also have the oversight responsibility and authority for the Howard County Public School System, as that organization spends half of the County's funds annually. Since education funds also come from the Federal and State governments, and the Maryland Department of Education also has statutory authority over the HCPSS, this provision may need to be specified and defined in these bills.

We urge you to pass CB 47-2024 and CB 48-2024 without delay.

Laura Mettle

President

League of Women Voters of Howard County

"There's no such thing as a vote that doesn't matter. It all matters." - Barack Obama

From: Ryan Powers <rpowerz115@gmail.com>
Sent: Monday, July 15, 2024 3:30 PM
To: CouncilMail
Subject: Please support CB47-2024 and CB48-2024

Follow Up Flag: Follow up
Flag Status: Flagged

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

Dear Councilmembers,

I am writing in favor of the creation of an Office of Inspector General for Howard County.

Although we have a county auditor, I believe this bill would provide better oversight of our government and/or any agency/system that receives money from Howard County. I also believe Inspectors General of other counties have demonstrated that overall this will save the taxpayer money-- not cost us more.

Furthermore, I believe this is a good bill because our Board of Education needs oversight of their actions. Particularly, I remain concerned by their decision to award busing contracts to Zum. Zum deadline miles are costing us an additional 9 million in FY25, they appear to be close to fraud in their invoices as they have charged for bus routes that didn't run, and a public information request for the Zum contract was heavily redacted. Having an IG can only increase resident confidence in our school system and government and also put a stop to rumors or uninformed information on social media.

Thank you,

Ryan Powers

Glenwood, MD

From: Sharon Boies <sbmuzicmts@gmail.com>
Sent: Monday, July 15, 2024 11:48 AM
To: CouncilMail
Cc: Jung, Debra; Walsh, Elizabeth; Rigby, Christiana; Yungmann, David; Jones, Opel
Subject: Written testimony re: CB47-2024 and CB48-2024
Attachments: CB47 2024 and CB48 2024 Written testimoy for Inspector General Establishment.docx

Follow Up Flag: Follow up
Flag Status: Flagged

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

Good morning members of the County Council.
Please accept my testimony attached below, in support of CB47-2024 and CB48-2024.
Thank you for this opportunity and for your consideration.
Very Truly Yours,
Sharon Boies

July 15, 2024

Howard County Council
Inspector General Establishment &
Whistleblower Protection
CB 47-2024 – Position - Support
CB 48-2024 – Position - Support

Dear Members of the Howard County Council,

I write in support of Council Bills CB 47-2024 and CB 48-2024 which would create the Office of the Inspector General (the “IG”), the IG Advisory Board, and amending the process for whistleblower complaints.

As a long time, Howard County resident, I’ve witnessed its transformation and the constant underlying, urgent push for more growth and development to the point that we are now down to only a very small portion of the land left that we once had available to build on, which makes this remaining portion even more desirable and sought after.

This urgent push has led to exemptions, exclusions, special funding arrangements through grants, and layers of people who work in this sector, it has also caused the citizens to wonder about who is in charge

of Howard County anyways? Private corporations, the public, or public servants? This urgent push has caused the public to question some of these decisions.

CB47 states -THE PURPOSE OF CB47 2024, THE OFFICE OF THE INSPECTOR GENERAL, IS TO “PROVIDE INCREASED ACCOUNTABILITY AND OVERSIGHT IN THE OPERATIONS OF ANY DEPARTMENT, OFFICE, OR AGENCY RECEIVING FUNDS FROM THE COUNTY GOVERNMENT BY IDENTIFYING:

FRAUD, WASTE, ABUSE, AND ILLEGAL ACTS IN THE COUNTY GOVERNMENT; AND WAYS TO PROMOTE EFFICIENCY, ACCOUNTABILITY, AND INTEGRITY IN THE COUNTY GOVERNMENT.”

I can't think of any reason good enough to not support the bills. These are common sense bills that will not only ensure oversight but also offer protection for the any member of the community or the County Council, the County Executive, or any Howard County official or employee who wishes to report a situation.

Any person who is considering seeking higher office should consider how their vote on this bill will look to constituents in the future. This bill is about keeping honest people honest and holding people accountable if they aren't.

As the county develops these remaining spaces and looks to transition to a post development economy in the future, I support wholeheartedly the concept of an IG and an Advisory Board to deter and potentially prevent inappropriate conduct and to provide appropriate review and investigation of situations that warrant them, but I have a few concerns and suggestions for slight revisions in the final bill.

I have concerns regarding the appointment process.

From “SEC. 22.1202. APPOINTMENT.”

“THE INSPECTOR GENERAL IS APPOINTED BY THE INSPECTOR GENERAL ADVISORY BOARD. AN AFFIRMATIVE VOTE OF A MAJORITY OF CURRENT MEMBERS OF THE INSPECTOR GENERAL ADVISORY BOARD SHALL BE NECESSARY TO APPOINT AN INSPECTOR GENERAL.”

The appointment of the IG should be approved by the County Council as well.

I also have concerns about the length of the IG’s term. The bill states that “NOT WITHSTANDING SECTION 1.306(A), THE INSPECTOR GENERAL SHALL SERVE A TERM OF SIX YEARS COMMENCING FROM THE DATE OF APPOINTMENT.”

Six years seems far too long, and I feel this should be reduced to 4 years.

I agree that there needs to be a Deputy Inspector General and that the IG shall appoint a Deputy Inspector General. Also, that the Deputy IG shall serve as the acting IG if the Inspector General is absent or unavailable for duty, or if there is a vacancy or incapacity. But leaving the position of Inspector General open for six months is too long and this should be reduced to limit disruption to ongoing activity. Also, reports should be filed no later than 61 days.

Regarding “Membership”.

The bill states “THE ADVISORY BOARD SHALL BE APPOINTED BY THE COUNTY EXECUTIVE AND CONFIRMED BY THE COUNTY COUNCIL.”

This seems a bit counterintuitive if the purpose is to create trust, transparency, and impartiality in the selection and appointment process.

In my opinion, it should not be the responsibility of the County Executive to appoint all the members, and in fact I recommend that the County Executive appoint no more than half of the members, or less,

and the remaining members should be directly appointed by the County Council.

The purpose of CB 48 2024 among other things is to offer “Whistleblower Protection”.

Whistleblower protection is essential for good governance.

Whistleblower’s must be given a protected process to report situations in complete anonymity and with protection for the whistleblower.

I whole heartedly support CB 48 2024 and this extremely important bills passage should not be based on if CB 47 2024 passes or not.

As we all work to maintain transparency and trust in decisions made, and to ensure the continued integrity of the Howard County government now and for all future generations to come, I am requesting that you please support CB 47 and CB 48.

Thank you for this opportunity and for your immediate consideration.

Very Truly Yours,

Sharon Boies

Columbia, Md

From: Tony McGuffin <tonyjmcguffin@gmail.com>
Sent: Monday, July 15, 2024 5:00 PM
To: CouncilMail
Subject: CB47, CB48 - Inspector General

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

Dear County Council members,

I am writing to express my opposition to CB47 and CB48 establishing an office of Inspector General.

First, it would be a redundant office. We already have the Office of the County Auditor to deal with the exact same issues: fraud, waste, and abuse.

True, a couple very large jurisdictions in Maryland have Inspectors General, though the PG County Inspector General is only for emergency services as the County has had to deal with some corruption in the Police Dept in recent years. We are a small county with no such serious issues or history of corruption to concern an Inspector General, especially since we already cover the same oversight in the County Auditor's Office.

What we do have, and it is a problem, is a cadre of citizens who frequent social media with an apparent desire to make their neighbors feel that they live in a corrupt, criminal environment, but no evidence is ever given for their accusations, only conjecture. Any distrust of government here in Howard County is fomented by that small group who post innuendo, insinuations of wrongdoing, even false accusations, sometimes reaching a level of defamation, but with no evidence, again, only negative, harmful conjecture trying to drive up discontent.

These are the potential beneficiaries in establishing this office because it would falsely support their baseless accusations and appease them by validating their unhealthy social commentary. We should not support or validate false accusations, insinuations, and defamation.

I do not believe that establishing this redundant office will foster greater trust, or that we need this additional watchdog to instill trust.

We live in a great county with above board, professional, honorable elected officials who consistently operate responsibly and with appropriate transparency. When I vote for them, I offer my trust. Should I feel that trust violated, I'll report it to the already existing County Auditor for resolution.

Thank you for your attention,

Tony McGuffin

From: Janet Medina <janetmedina@verizon.net>
Sent: Tuesday, July 16, 2024 3:56 PM
To: CouncilMail
Subject: Proposal for Office for Inspector General for Howard County

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

Dear County Council,

I wanted to express my support for the proposal by Liz Walsh for an Office of Inspector General for Howard County. I have read the proposal documents, am aware that similar positions exist in Baltimore City and Baltimore County, and believe this position could be an asset to the county.

Regards,

Janet Medina

4614 Smokey Wreath Way
Ellicott City, MD 21042
janetmedina@verizon.net

Sent from my iPad

From: Gregory Care <gregory.p.care@gmail.com>
Sent: Wednesday, July 17, 2024 5:45 PM
To: CouncilMail
Subject: Support for CB-47 and CB-48

Follow Up Flag: Follow up
Flag Status: Flagged

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

Dear Members of the County Council,

Please vote to create a vital tool to ensure good and proper governance and use of our public funds. We deserve an independent Inspector General.

Thank you,
Greg Care
Resident of D-1

From: A Judd <bakkj55@hotmail.com>
Sent: Sunday, July 21, 2024 5:14 PM
To: CouncilMail
Subject: Inspector General

Follow Up Flag: Follow up
Flag Status: Flagged

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

I am actually really surprised we don't have an independent inspector general. Please support and vote in favor of establishing an independent Inspector General! Please vote for CB-47 and CB-48.
Aileen

Subject: FW: Ensuring Honest Government: An Inspector General for Howard County
Date: Tuesday, July 23, 2024 8:09:00 AM

From: Bert Wilson <BertWilson@theenergyartisans.com>
Sent: Monday, July 22, 2024 10:12 PM
To: CouncilDistrict1@howardcountymd.gov
Cc: Walsh, Elizabeth <ewalsh@howardcountymd.gov>
Subject: RE: Ensuring Honest Government: An Inspector General for Howard County

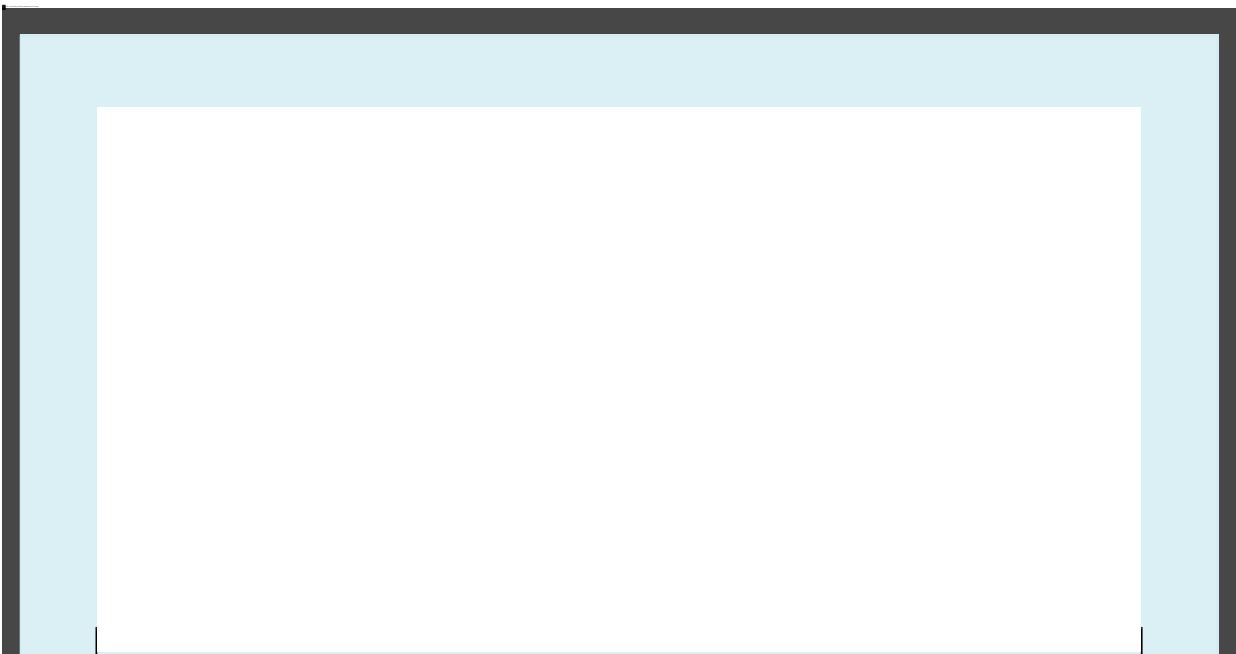
[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Liz,
Hope you are well this summer. I wanted to say that I think an Inspector General is a awesome idea, particular as our County budget is in the \$1B+ range. Independent oversight is a critical item. Thanks for suggesting. I'm totally in support.

Bert Wilson, CFA
Managing Director
The Energy Artisans
8060 Main Street
Ellicott City, MD 21043

Direct: (443) 286-1397
www.TheEnergyArtisans.com

From: Councilwoman Liz Walsh, District 1 Howard County Council <councildistrict1@howardcountymd.gov>
Sent: Friday, July 12, 2024 9:25 AM
To: Bert Wilson <BertWilson@efwcorp.com>
Subject: Ensuring Honest Government: An Inspector General for Howard County



Dear Howard County Friends and Neighbors,

District 1 is delighted to announce our latest effort: establishing an Office of the Inspector General right here in Howard County.

This crucial office would work to fend off waste, fraud, and abuse, ensuring transparency and accountability in our community. They would be an independent, nonpolitical body empowered to investigate complaints against agencies and entities that receive County funding.

We look forward to collaborating with all of you in Howard County and our allies beyond, to establish an Inspector General and uphold our commitment to responsible, people-powered governance.

Most recently, Inspector Generals in other jurisdictions have uncovered **hundreds of thousands of dollars in fraud** by a company Baltimore County contracted and **lack of adequate worker heat protections** at a Department of Public Works job site in Baltimore City.

We would love your support and engagement as we move forward! ***Next up, on July 15th at 7pm***, there will be a public hearing for this legislation. Please sign up to testify below.

Yours in Service,

Liz Walsh

[Sign up to testify in support of CB 47 and CB 48](#)

"The Inspector General will have no

agenda other than good government."

-Liz Walsh

The bills we filed are [CB 47](#), which establishes the office and its powers, and [CB 48](#), which outlines how the Inspector General will be appointed and how the citizen appointing board will operate. Over the past several years, we've researched and laid the groundwork. Drawing inspiration from successful models in Baltimore City and Baltimore County, we've tailored the concept to suit the specific needs of Howard County.

The Inspector General will operate independently, appointed by a citizen board – including subject matter experts – to divorce it from political influence. This structure is crucial for enhancing accountability, transparency, and fostering greater trust in our local government.

Important Upcoming Dates

Monday, July 15 at 7pm: Public Hearing. [Sign up to testify](#) in support of CB 47 and/or CB 48. You can sign up any time before the hearing begins (7pm) to testify. We will also be holding a press event at 6pm in front of the George Howard Building before the hearing.

Monday, July 29 at 10am: Legislative Session. At this session, the Council could A) vote to pass the bills, B) vote to table the bills and continue the discussion, or C) vote to dismiss the bills. [Watch virtually](#) or at the George Howard Building (3430 Courthouse Dr, Ellicott City, MD 21043).

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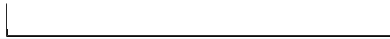
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From: David Plymyer <dplymyer@gmail.com>
Sent: Monday, July 22, 2024 6:00 PM
To: CouncilMail
Cc: CouncilDistrict1@howardcountymd.gov; CouncilDistrict2@howardcountymd.gov; CouncilDistrict3@howardcountymd.gov; CouncilDistrict4@howardcountymd.gov; Yungmann, David
Subject: Bill Nos. 47-2024 and 48-2024
Attachments: Written testimony, Ho Co Council.pdf

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Dear Members of the County Council:

My written testimony in support of the above-referenced bills is attached.

Thank you.

DAVID A. PLYMYER
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TO: Members, Howard County Council

DATE: July 22, 2024

SUBJECT: Bill Nos. 47-2024 and 48-2024

Please accept this as my written testimony in support of Bill Nos. 47-2024 and 48-2024 regarding establishment of the Office of Inspector General of Howard County. In my opinion, they are extremely well-crafted bills and deserve your favorable consideration.

I am especially impressed with the thoroughness of the bills. I am sure that, if Inspector General Ramos from the City of Baltimore and Inspector General Madigan from Baltimore County testify, they will tell you the same thing: The bills set the stage for an effective OIG.

I retired as Anne Arundel County Attorney in 2014 after 31 years in the county Office of Law, preceded by five years as an Assistant State's Attorney for the county. I now live in Catonsville. Most of my experience with OIGs lies in defending them from attack from elected officials both [in the city](#) and [in Baltimore County](#).

In my opinion, OIGs are now an indispensable part of larger city and county governments. One reason is the decline in local news reporting, a decline not likely to be reversed. When I began my career in Annapolis in the late 1970's, you couldn't walk 20 feet without tripping over a reporter, whether from the *Annapolis Capital*, *Baltimore Sun* or even the *Washington Post*.

All those eyes and ears made a difference. Having government employees, who are prone to talk, in close proximity to reporters that they know and trust promotes accountability. Those days probably are gone forever, and having an OIG can help make up for what has been lost.

Comments specific to the manner of appointing and removing the IG: The independence of the IG is important, because you don't want an IG afraid of stepping on the wrong toes. I like the manner in which Bill No. 47-2024 empowers the IG Advisory Board not only to appoint the IG but also to remove the IG for cause.

In terms of removal for cause, I'm a lot less concerned about a "rogue" IG who terrorizes county employee (a red herring raised by certain Baltimore County officials) than I am about a complacent one. You don't want to have to file a complaint about an IG who is letting things slide with a public official or officials who may be quite pleased with the IG's complacency.

Budgetary independence is important, too. Bill No. 47-2024 goes as far it can within the limits of the county charter. If the OIG eventually is hard-wired into the county charter (which I recommend, as described below), the council should consider amending Section 606 of the charter to allow the council to restore any cuts made to the OIG's budget by the county executive.

Comments on charter amendment: I know there's been discussion about the advantage of having some of the provisions of the bills adopted as amendments to the county charter. I agree, but that is not a reason to delay this

bill. You don't want to allow the perfect to become the enemy of the good, nor do you want the professed need for a charter amendment to be a pretext for kicking the accountability can down the road.

It makes perfect sense to pass these bills now, and then start work on a proposed charter amendment to appear on the ballot in 2026 that will "harden" selected provisions protecting the independence and effectiveness of the OIG against mischief by elected officials. That is certainly a model that has worked for other jurisdictions.

Another reason not to delay is that, if there are problems within county government, you don't want to allow them to continue to get worse, because the worse they get, the harder they are to fix. An example of that is Baltimore County, which should have established an OIG many years before it did.

As I mentioned, I don't live in Howard County, but I participated in a panel discussion on the bills in Columbia sponsored by a Howard County group. Group members were interested and engaged, and I decided that I should tell you what I told them: I've read lots of bills governing OIGs and listened to lots of discussions, and in my opinion Bill Nos. 47-2024 and 48-2024 are very well done and deserve the support of residents and the county council.

Thank you, and good luck.

From: Gelwicks, Colette
Sent: Tuesday, July 23, 2024 10:20 AM
To: Anderson, Isaiah
Subject: FW: Inspector General

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Additional testimony sent only to Christiana Rigby for the file.

Colette Gelwicks ([hear name](#)) *she/they*
Chief of Staff for Councilwoman Christiana Rigby, District 3

Howard County Council
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410.313.2421



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From: Fran LoPresti <fflopresti@gmail.com>
Sent: Monday, July 22, 2024 5:47 PM
To: Rigby, Christiana <crigby@howardcountymd.gov>; Gelwicks, Colette <cgelwicks@howardcountymd.gov>
Subject: Inspector General

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Hello,

I wanted to write in support of the 2 bills establishing an independent Inspector General. There have been a few times over the decades when I thought an investigation would have been helpful.

I am not picky about how the Oversight Committee is constituted except it should have members proposed by the Executive AND legislative branches.

--
Fran LoPresti