



# Howard County Council

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**CB38 protects against future flooding risks—to the public health, safety and welfare, and investment—in the Patapsco Lower North Branch watershed.** Responding to the specific mandates of last year’s Watershed Safety Act (CB56-2018), this bill would prevent further large-scale development in the watershed from degrading what scant green infrastructure still remains: by buttressing—and then honoring—required setbacks from the waterways and steep slopes that carry flood waters, and the floodplains and wetlands and tree canopies that slow and detain them. In doing so, CB38 would also prevent those further large-scale developments from placing more property and more people in harm’s way.

To address a number of concerns raised during public testimony—and to garner the third vote CB38 needs to pass tonight’s vote (D4 Councilmember Deb Jung already has committed her support to the bill)—CB38, as proposed to be amended, has been cut to the bone. To protect the last 9% of undeveloped land in the Patapsco Lower North Branch watershed, here is what would remain:

**1. Enhance existing law protecting waterways, wetlands, steep slopes, trees and forests**

- 🌿 For streams, required buffers increase from 75’ to 100’
- 🌿 For wetlands (150 acres, comprising just 0.7% of the total watershed), required buffers increase from 25’ to 100’
- 🌿 For steep slopes, a new 50’ buffer applies

**2. Eliminate Developer entitlements to avoid the law**

- 🌿 Waivers—already prohibited as to floodplains, wetlands, streams and steep slopes in the old Ellicott City and Plumtree Branch watersheds—are no longer permitted to avoid forest conservation obligations
- 🌿 Fees in lieu of complying with forest conservation, open space requirements and/or on-site stormwater controls also are prohibited

**3. Improve on-site stormwater controls, as a matter of law**

- 🌿 On-site stormwater management must control up to 2016 peak flood conditions, defined as 6.6” rainfall over 3.55 hours

Additionally, County-wide, CB38 still would require that certain established environmental designations be incorporated into site development planning and review. Plans must depict the very largest trees on and adjoining the site (State-protected “specimen” trees), the “hubs” and “corridors” comprising the County’s Green Infrastructure Network and the Maryland Department of Environment’s designated Targeted Ecological Areas, and those plans must be prepared by licensed professionals.

## Frequently Asked Questions about CB38, the Protect-This-Watershed Bill:

- Will CB38 prevent me from making simple improvements to my home or property? Nope. CB38 looks to improve how we regulate large-scale subdivision and site development in the County, like the proposed 8-acre “Long Gate Overlook” on Montgomery Road/Route 103 or the 65-acre “Gatherings at Taylor Place” between College and New Cut. Not small-scale projects (less than 5,000SF) like adding on to existing homes, or building a deck or patio. [Amendment No. 1](#) now explicitly exempts these types of small homeowner projects.
- Is it true that stormwater runoff was not to blame for the 2016 and 2018 Ellicott City floods? Not a chance. Even the 2017 analysis that Developers cite over and over again in support of this argument concluded otherwise: Of course, in general, **an “undeveloped scenario [compared to developed] represents significant reductions in the peak flows.”** (June 16, 2017 [Ellicott City Hydrology/Hydraulic Study and Concept Mitigation Analysis](#), p. 10.) That same report goes on to say that “as storm events become larger, the existing and undeveloped discharges become closer.” And by “closer,” we’re talking about going from 48% more surface water running off developed land under 10-year-storm conditions to 29% more during a 100-year storm, for example, in the Hudson Branch. That’s, still, a whole lot more flood water that wouldn’t be there otherwise. (And that’s assuming that all those inputs and constraints that made this singular model conclude as much all were right.)
- What about parks and schools and fire stations, and other public projects, or public utilities—will CB38 prevent those kinds of projects from being built in the watershed? Not at all. Those projects also would be exempted from the bill’s reach, as what the Department of Planning and Zoning already allows as “necessary disturbances,” by [Amendment No. 2](#). That said, I’m not convinced exempting public projects is the right answer in every circumstance, that is, County government should be able to build, too, without clearing and regrading steep slopes, building into streams, wetlands or floodplains, or felling hundred-year-old trees.
- Won’t CB38 shut down redevelopment of Route 1? CB38 actually proposes to ease stormwater management requirements on existing built-out sites. For those redevelopment sites in the watershed, although more existing forest and tree cover is required to be preserved (if there even is any), less existing impervious surface is required to be reduced (that is, compared to 50% reduction of impervious surface required under existing law, CB38 requires reduction of just 25%, but preservation of 25% of any existing green space.) And, redevelopment sites must control only up to the 24-hour, 100-year storm event, currently defined as 8.51” rainfall over 24 hours (compared to up to the 2016 peak flood conditions proposed under the Administration’s concurrent legislation CR122 and CR123).
- Can’t we just fix all this with some massive infrastructure projects? Maybe. Even if we could, though, it’s going to take a whole lot of money, and someone else’s land, and time. And even if we had all that, there’s no guarantee that what we built would be what we need. At this point, I don’t think we can simply engineer our way out of unknowable climate risk, not using the traditional, gray-infrastructure approach. And I’m certain: it’s not worth the comparative investment, over preserving what green infrastructure we already have, that we already know works best. CB38 is an integral part of the comprehensive watershed-wide strategy that we need, to most effectively manage our future flood risk.