



## HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

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Christiana Mercer Rigby, County Council Chairperson  
Howard County Council  
3430 Courthouse Drive  
Ellicott City, Maryland 21043

Dear Council Chairperson Rigby:

Today, by the authority granted by Section 209 of the Howard County Charter, I have vetoed Council Bill No. 11-2019 (CB 11). I do acknowledge that there are valid concerns about the protection of our scenic roads and I appreciate that you recognize that this issue needs to be addressed. However, I do not believe we had adequate time to properly analyze the amendments filed on March 28, 2019 and the amendments to the amendments that were provided at the time of final vote on April 1, 2019 to determine if CB 11 is the best way to address scenic roads.

CB 11 was introduced by the Council on March 4, 2019 and a public hearing was held on March 18, 2019, where testimony was offered. On March 25, 2019 a work session on CB 11 was held that lasted approximately 90 minutes. Ten amendments were filed on March 28, 2019. The Council met in legislative session on April 1, 2019, at which time 18 amendments to the amendments were offered.

The Administration, the public and members of the County Council were not given sufficient time to review the amendments to the amendments to determine impacts, unintended consequences and consistency with the General Plan. Upon review after the passage of CB 11 as amended, the bill is problematic, both operationally and technically.

To highlight some operational impacts, Amendment 3 to Amendment 1 (Am 3 to Am 1) requiring an agricultural buffer, such as pasture or crop field, to be planted with native species is counter to agricultural practices because agricultural fields generally consist of “non-native” plants. Removing and replacing them with native plants would not be consistent with standard practices. Likewise, Am 3 to Am 1 is inconsistent with requirements set forth in Section 16.125(b)(1)vii of the County Code that require use of vegetation commonly found in the area for landscaping.

Amendment 6 to Amendment 2 (Am 6 to Am 2) removed traffic safety considerations as an element of Planning Board consideration in its evaluation of the “practicability” of access. I maintain that sight distance is a crucial element of traffic safety and is a critical factor in determining the practicability of access.

Amendment 11 to Amendment 2 (Am 11 to Am 2) is also problematic because of its placement and use of multiple clauses, combined into a single statement. This amendment references use of existing driveways but is placed in a section that discusses “new access” points. Additionally, the determination related to use

of existing driveways includes multiple concepts without a clear and logical connection. As a result, the legislative intent of Am 11 to Am 2 is unclear, leaving significant questions about its application. I cannot support legislation that requires this level of interpretation by county officials.

Amendment 2 allowed a buffer reduction to 75 feet in certain instances. Amendment 11 to Amendment 2 (Am 11 to Am 2) narrowed that buffer reduction to only apply to non-wooded buffers. It is unclear why a reduction would no longer be allowed for wooded buffers. The assumption that only non-wooded buffers could be reduced by natural screening, ie- turning it into woods, appears contrary to Section 16.125(b)3 of the County Code related to areas with open views.

To highlight some of the technical errors in the amendments, Amendment 1 to Amendment 6 (Am 1 to Am 6) attempted to exempt properties outside of the Planned Service Area. While I support this policy, the amendments are incompatible. Am 1 to Am 6 inserted language into a paragraph already stricken by Amendment 2 to CB 11. If we could have reviewed the amendments to the amendments, this technical flaw may have been addressed.

Also problematic from a technical standpoint, both Amendment 5 to Amendment 2 (Am 5 to Am 2) and Amendment 11 to Amendment 2 (Am 11 to Am 2) relate to requirements for initial plan submittal. Both amendments insert a clause in the same place in the underlying Amendment 2 and it is not clear which clause should go first. Accordingly, the legislative intent of these amendments is unclear and unknown. Had the rest of the Council and the Administration had a chance to review Am 5 to Am 2 and Am 11 to Am 2, this inconsistency could have been caught. Again, I cannot support legislation that is so unclear, it requires this level of interpretation by the County.

It was argued at the legislative session on April 1 that policy is needed before a law can be written. Relatedly, a colleague abstained from voting on CB 11, expressing concern with not having adequate time to review the unintended consequences of CB 11, as amended. We owe it to the residents and businesses in the County to ensure that such a bill with significant questions relating to legislative intent and the intended manner of implementation does not go into effect.

Finally, some changes made to CB 11 were arguably significant and substantive. For example, Amendment 3 removed a clause from the title of CB 11 and this removal broadened the scope of CB 11. The practical impact of CB 11, as amended, is that minor subdivisions and nonresidential developments no longer have any buffer requirements. I know that we all support transparency and public participation. These amendments to amendments were filed immediately prior to vote without any chance for the agency charged with implementing the statute or the public to comment. Accordingly, while I support protecting our scenic roads, I cannot support the outcome of this process, which is a bill that removes buffers from certain development types, is unclear and subject to significant interpretation.

Sincerely,



Calvin Ball  
County Executive

cc: Howard County Council  
Jessica Feldmark, Council Administrator  
Gary W. Kuc, County Solicitor