

Advocates for Herring Bay (AHB)¹
Regarding HB 239 —Starter and Silver Homes Act of 2026
Stephen Marley, February 10, 2026
Favorable with amendments

The Advocates for Herring Bay (AHB) support efforts to increase affordable housing in an environmentally sound manner. Maryland can achieve those dual goals by taking a holistic approach to HB 239, one that balances the state’s housing needs with its longstanding commitments to sustain the Chesapeake Bay and other ecologically valuable resources.

In our view, HB 239 needs to be amended to prevent unintended adverse effects on the environment that would result from provisions limiting the authority of local lawmakers to adopt and enforce standards for certain town house developments. Illustrative text for such amendments is provided in Attachment 1 on page 3. Our four major concerns are:

1. HB 239 allows high-density development in ecologically valuable areas. HB 239 as introduced would allow town house development on most of the state’s residential properties. Its provisions apply to all tracts that are allowed to have a house—including farms—unless the parcel is protected by an agricultural or environmental conservation easement or located in an existing historic district. AHB urges the Committee to amend Subsection (E)(2) to exclude geographic areas cited in state laws as environmental priorities, including:

- *The Chesapeake and Atlantic Coastal Bays Critical Area*, consistent with state laws and multi-state agreements targeting that buffer zone for conservation purposes; and
- *Areas without currently available public sewer and water capacity*, consistent with the state’s statutory goal of reducing nitrogen loads by avoiding growth in areas served by septic systems.² Areas without sewer also host much of Maryland’s Habitat Conservation Network.

2. HB 239 creates development rights without regard to the environmental features of individual parcels, including those served by sewer. Subsections (E)(4) and (E)(5) grant owners of residential properties the right to subdivide and develop up to three lots on their parcel without setting aside ecologically valuable acreage. Parcel-level protections are needed to safeguard vital natural resources and reduce uncertainty and conflicts about the extent of the new property rights. Thus, AHB urges the Committee to amend Subsection (E)(2) to exempt:

- *Sensitive areas*, which by law include wetlands, streams and their buffers; floodplains; steep slopes; key habitats; and resources intended for or in need of protection;³ and
- *Forests listed as a priority for retention and protection* under Maryland’s Forest Conservation Act, which addresses important urban as well as rural resources.⁴

3. HB 239 risks exacerbating flooding and stormwater runoff. Subsection (E)(3) bars localities from setting any upper limit on “lot coverage” for single-family homes. That open-ended provision may have the unintended effect of deregulating lot coverage, allowing all single-family residences—not just the town houses authorized by this bill—to have 100 percent of their parcel covered by hard, impervious surfaces. Unless amended, enacting HB 239 could increase

¹ The Advocates for Herring Bay, Inc. (AHB) is a community-based environmental group in Anne Arundel County.

² See the sewer planning tiers established under [Sustainable Growth and Agricultural Preservation Act of 2012](#).

³ e [Land Use Article, §1-101\(o\)](#).

⁴ See [Natural Resources Article §5-1607\(c\)](#).

flood risks across the state by significantly reducing the acreage available for natural, vegetative buffers that absorb and manage rainfall and stormwater runoff.

AHB recommends taking a two-pronged approach, tailoring any increase in lot coverage to the incremental amounts needed to accommodate town houses added by HB 239 while retaining an upper limit pegged to the jurisdiction's lot coverage limit for town house zoning districts. As shown in Attachment 2, that upper limit in Anne Arundel County currently would be 75 percent.

4. HB 239 creates regulatory uncertainty for environmental protections by barring local actions “notwithstanding any other law.” The sweeping scope of the “notwithstanding” clauses in Subsection (E) casts doubt on the authority of local governments to enforce environmental laws that apply to town house development. While the bill says that state laws will remain in effect, it does not say who will perform those functions.⁵

Clarifying the Committee's intent is important because Maryland currently relies on local governments to implement the state's forest conservation, stormwater, and other land-use related laws.⁶ To avoid litigation and lapses in enforcement, AHB urges the Committee to amend the bill to expressly confirm that the provisions in HB 239 do not supersede state or local implementation of our environmental laws.

In closing, solving challenges like affordable housing will require holistic, innovative approaches that address Maryland's diverse needs and priorities. Supplementing the bill's regulatory measures with market-based incentives like transferable development rights may offer additional opportunities for managing potential impacts. AHB appreciates the Committee's leadership on these complex issues and thanks you for considering our views.

Attachment 1: Illustrative text for amendments to HB 239 proposed by AHB

Attachment 2: Anne Arundel County lot coverage allowances for residential zoning districts

⁵ Subsection (E)(6) states that the provisions in HB 239 do not apply if they conflict with other state or federal laws. It is not clear at this time whether state or local agencies would be responsible for implementing those laws.

⁶ See Maryland Department of Legislative Services [Fact Sheet: Regulation of Land Use in the State](#), January 2025.

Attachment 1
Illustrative text for amendments proposed by the Advocates for Herring Bay
to HB 239, the Starter and Silver Homes Act of 2026, as introduced

Exempt areas: insert on page 8, after line 26:

(IV) land within the Chesapeake and Atlantic Coastal Bays Critical Area, as defined in the Natural Resources Article, §8-1802;

(V) areas without currently available public sewer and water capacity;

(VI) sensitive areas, as defined in the Land Use Article, §1-101(o), or

(VII) forests designated as priority for retention and protection under Natural Resources Article §5-1607(c).

Lot coverage: on page 9, strike lines 6 and 7 and insert:

(III) Lot coverage limits for lots created for town houses under the authorities in this Subsection that would differ from the lot coverage allowed for similarly sized single-family lots, provided that the cumulative lot coverage may not exceed the lot coverage allowed on land zoned for town house development in that jurisdiction.

Regulatory uncertainty: On page 10, line 1, renumber existing (II) as (III) and insert new (II) to read as follows:

(II) Do not supersede applicable environmental laws or regulations, including state and local implementation of laws related to:

- 1. Environmentally sensitive areas, Land Use Article, Section 101(o),*
- 2. Forest conservation, Natural Resources Article, Subtitle 16,*
- 3. Water management, including stormwater, Environment Article, Title 4,*
- 4. All other applicable environmental protections in state law.*

Attachment 2

Anne Arundel County lot coverage allowances for residential zoning districts

Anne Arundel County Lot Coverage Percentages

Source: <https://www.aacounty.org/planning-and-zoning/zoning-administration/zoning-classifications-guide>

Extracted: January 31, 2026

Zoning District	Characteristics	Allowable Density per sq feet unless specified	Minimum Lot Size (sq. feet)	Lot coverage percent
RA	Agriculture-very low density	1 per 20 acres	40,000	25%
RLD	Low-density rural	1 per 5 acres	40,000	25%
R-1	Low-density suburban	1 per 40,000 sq. feet	40,000	50%
R-1 - duplex	Low-density suburban	1 per 15,000 sq ft., side by side	30,000	50%
R-2 - no sewer	Low-medium density-suburban	1 per 20,000 sq. feet	20,000	60%
R-2 - with sewer	Low-medium density-suburban	2.5 per acre	10,000	60%
R-5 - no sewer	Low-medium density-urban	5 per acre	10,000	65%
R-5 - with sewer	Low-medium density-urban	5 per acre	5,000	65%
R-10	Townhouse, etc.-medium density	10 per acre	na	75%
R-15	Townhouse, etc.-higher density	15 per acre	na	75%
R-22	Apartments - higher density	22 per acre	na	75%