

Advocates for Herring Bay (AHB)¹
Regarding SB 36 —Starter and Silver Homes Act of 2026
Stephen Marley, February 13, 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 SB 36, 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, SB 36 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. In our testimony on HB 239, AHB raised four major concerns.² It is our understanding that amendments offered by the Department of Housing and Community Development (DHCD)³ will address one of those issues, namely the need to exempt the Critical Area, FIDS habitats, Tier IV lands, and properties served by septic systems from the bill.

While AHB applauds the DHCD for agreeing to exclude those geographic areas, more changes are needed to address site-specific impacts that could harm both the environment and communities. Our three major concerns beyond the geographic exclusions are discussed below. Illustrative text for amendments to the bill, including changes to the DHCD proposals, is provided in Attachment 1.

1.SB 36 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 natural resources that underpin the resiliency of Maryland’s environment. Those resources include:

Sensitive areas, which by law include floodplains; wetlands, streams and their buffers; steep slopes; key habitats; and resources intended for or in need of protection.⁴ Failing to exclude sensitive acreage from calculations of developable land would not only degrade environment but put the residents at risk of damage from flooding, runoff, and erosion.

The DHCD’s proposed amendment #3 creates a new but optional regime for managing sensitive areas. In addition, those optional standards only require minimizing impacts on sensitive areas, leaving priority resources and residents at risk of damage. AHB recommends amending # 3 to ensure the same level of protection provided by existing law. Thus, we suggest making the procedures in new subsection F mandatory and directing developers to “avoid” impacts. Alternatively, subsection (E)(2) could be amended to expressly exempt sensitive areas from the provisions in SB 36.

*Forests listed as a priority for retention and protection under the Forest Conservation Act*⁵ (FCA). That law calls for protecting not only habitat for Forest Interior Dwelling Species (FIDS) but also forests essential to the safety and supply of water—such as forests in water resource protection zones, reservoir watersheds, and wellhead protection areas— and forests located in Tier II and Tier III high quality watersheds identified by the Maryland Department of the Environment.

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

² See [Testimony of AHB on HB 239](#).

³ We have seen a copy of a February 12, 2026 letter to the House Economic Matters Committee from the Maryland Department of Housing and Community Development that shared 14 proposed amendments to HB 239.

⁴ e [Land Use Article, §1-101\(o\)](#).

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

The DHCD’s proposed amendment # 4 would exempt FIDS habitat from the provisions in SB 36, an amendment that AHB strongly supports. However, we also believe that forests identified as integral to the health of our water supplies and other resources should be protected as well. Thus, AHB recommends expanding the forest protections to cover all of the priority forests listed in the FCA.

2. SB 36 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 SB 36 could increase 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 SB 36 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.

Unfortunately, the scope and scale of DHCD’s proposed amendment # 12 would increase impervious surfaces beyond the amounts needed for new town houses. AHB urges the Committee to reject that amendment. It applies to all single-family parcels in eligible areas—not just properties adding town houses—and would set a compulsory minimum lot coverage allowance of 75 percent, which is higher than the impervious surface allowed for most single-family homes in Anne Arundel County. As an alternative, the Committee could consider AHB’s illustrative lot coverage amendment or require a study on optimal lot coverage calculations for any incremental development.

3. SB 36 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.⁶

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.⁷ To avoid litigation and lapses in enforcement, AHB urges the Committee to amend the bill to expressly confirm that the provisions in SB 36 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 SB 36 proposed by AHB

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

⁶ Subsection (E)(6) states that the provisions in SB 36 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.

⁷ 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 SB 36, the Starter and Silver Homes Act of 2026, as introduced including proposed changes to amendments offered by DHCD on February 12, 2026

DHCD Amendment # 1: limiting town house provisions to areas served by water/sewer

Purpose of revision: The right to subdivide a property for town houses in (E)(5) also should be contingent on the sewer/water eligibility requirement.

- Page 9, line 19, insert after (II) insert: **AND (III)**
- Page 9, insert after line 26 insert:
(III) THIS PARAGRAPH DOES NOT APPLY TO A LOT UNLESS THE AREA IS CONNECTED OR PLANNED TO BE CONNECTED WITHIN THE NEXT FIVE YEARS TO PUBLIC WATER AND SEWER SYSTEMS.

DHCD amendment # 3: authorizing optional measures in “sensitive areas”

Purpose of revisions: Maryland’s existing law and regulations regarding sensitive areas should expressly apply to any development authorized by SB 36. Affirmation is needed because of uncertainty stemming from the “notwithstanding” clauses in the bill.

- In new (F)(1), first sentence, after “Article:” strike “may” and insert “**SHALL**”
- In new (F)(1), strike “or minimizes”

Alternatively: insert on page 8, after line 26:

(IV) SENSITIVE AREAS, AS DEFINED IN THE LAND USE ARTICLE, §1-101(O)

DHCD amendment #4: regarding exempting FIDS habitat

Purpose of revisions: AHB strongly supports amendment #4 but urges the Committee to exempt **all** of the priority forests designated for retention and protection under the Forest Conservation Act.

- In new (E)(2)(V), after §5-1607(c): strike (III)

DHCD amendment # 12: setting a minimum lot coverage allowance of 75 percent

Purpose of revisions: AHB strongly opposes both (E)(3)(III) as introduced and DHCD’s proposed amendment #12.

- on page 9, strike lines 6 and 7.

Alternatively, 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.

AHB proposed amendment regarding 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 LAWS

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%