



February 27, 2023

The Honorable Kumar P. Barve, Chair
House Environment and Transportation Committee
House Office Building, Room 251
6 Bladen St., Annapolis, MD 21401

Unfavorable: HB 723 – Natural Resources – Forest Preservation and Retention

Dear, Chair Barve and Committee Members:

The NAIOP Maryland Chapters representing more than 700 companies involved in all aspects of commercial, industrial, and mixed-use real estate, recommend your unfavorable report on House Bill 723.

House Bill 723 proposes major changes to the Forest Conservation Act that will significantly reduce the buildable area on land zoned for development and further reduce the remaining development capacity in Maryland's Priority Funding Areas. NAIOP's specific concerns include:

- The definition of Priority Forest is significantly broadened to include tree stands, shrubs, tree canopy and other environmental features. The definition is broad enough to include most existing forest.
- Priority Forest cannot be cleared during development without approval of a variance. The standard of review to approve a variance is, by design, difficult or impossible to meet meaning that most forest cannot be cleared even it were to be replanted.
- Replanting requirements for forest cleared during development are sharply increased. The expanded use of 2:1 mitigation ratios results in more land area dedicated to on-site replanting and reduced buildable area.
- The siting and use of forest mitigation banks is limited making off-site mitigation difficult. There is currently no forest banking capacity in Montgomery County and limited availability in any of the Central Maryland Counties.

As currently written, the Forest Conservation Act uses a sliding scale of conservation and replanting values that are designed to preserve forest but also allow land designated for development to perform as intended under its zoning and use classification. House Bill 723 would make the presence of forest – not zoning - the most important factor in the form and density of future development. Its passage would further deplete the remaining development capacity in Maryland's Priority Funding Areas and make it extremely difficult for these areas to function as the location for future employment and household growth.

The recently released Technical Study on the Changes in Forest Cover and Tree Canopy in Maryland found that the state's forest cover has been stabilizing over the last 10 years and that tree canopy has increased. The results of the study show potential to close remaining gaps through means that will not have the negative land use implications presented by House Bill 723.

For these reasons, NAIOP respectfully recommends your unfavorable report on House Bill 723.

Sincerely,

A handwritten signature in blue ink that reads "Tom Ballentine".

Tom Ballentine, Vice President for Policy
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

cc: House Environment and Transportation Committee Members
Nick Manis – Manis, Canning Assoc.