



February 19, 2024

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

Oppose: HB 24 – Environmental Permits – State Agency Actions

Dear, Chair Korman and Committee Members:

On behalf of the NAIOP Maryland Chapters representing 700 companies involved in all aspects of commercial, light-industrial, and mixed-use real estate I am writing in opposition to HB 24.

This bill would require that the Department of Environment conduct a climate and environmental equity evaluation of permit applications made for locations within an underserved for overburdened community that scores in the 75th percentile or higher using the MDE Environmental Justice Screening Tool. As part of the evaluation, the Department may consider cumulative impacts as defined in the U.S. Environmental Protection Agency's Cumulative Impacts Research Recommendations. NAIOP has concerns with the broad scope of the bill, the potential for inconsistencies between state and local land use plans and the EJ Screening Tool. We further anticipate that MDE and regulated entities will encounter technical difficulties conducting the impact assessment and identifying appropriate mitigation for permit applications that are related to development and redevelopment projects. The rationale for NAIOP's opposition includes:

- The scope of permits covered by the bill is overly broad. Its provisions apply to almost all air and water discharge permits. The bill covers intense activities like waste-water treatment plants and hazardous waste facilities as well as minor activities like stormwater management on development sites, restaurant grills, heating boilers, backup power generators. On balance we believe that redevelopment is a catalyst for positive economic and environmental change bringing housing, commercial amenities, and improved quality of life. Because it applies to permits regardless of the intensity of use, HB 24 will serve as a disincentive to commercial and residential redevelopment projects in underserved and overburdened communities.
- The land area indicated as scoring in 75th percentile or higher in the EJ Screening Tool coincides with designated Priority Funding Areas and Transit Oriented Development Areas. Areas mapped as being in the 75th to 100th percentile include most of the City of Baltimore, Odenton Town Center, Columbia Gateway Innovation District, Columbia Wilde Lake as well as important redevelopment sites such as the Lake Forest Mall near Gaithersburg. Designated Transit Oriented Development Areas at New Carrollton, Greenbelt, Naylor Road, Branch Avenue, Savage, Odenton, Westport, State Center, and Reisterstown Plaza are in locations that the EJ Screening Tool scores are being in the 75th percentile or higher. Purple Line stations at New Carrollton, Annapolis Road / Glenridge, Beacon Heights, Riverdale Park, U of M East Campus, U of M Campus Center, Riggs Road, Piney Branch Road, Silver Spring Library, Woodside / 16th Street are mapped in the 75th percentile by the EJ Screening Tool. These results indicate to us that the EJ Screening Tool should be utilized in conjunction with local land use plans to ensure coordination and reduce inconsistent decision making at the state and local levels.
- There is no methodology to accurately determine cumulative impacts, or a clear standard of review for MDE to follow. The document that MDE is directed to reference does not provide a methodology for conducting a

cumulative impacts analysis. To the contrary, the report notes that cumulative impact assessments to inform site-specific decisions often require environmental and socioeconomic data at high-resolution such as the census block or finer. The report states that the lack of high-resolution spatial and temporal data, “pose significant challenges to EPA’s ability to conduct and translate cumulative impact assessments, as well as EPAS’ ability to build a scientific foundation for cumulative impact assessments in the first place.”¹

- For minor stormwater and air permits, it is unlikely the bill would result in greater environmental protections or pollutant reductions than would be achieved using the permit review and technology based environmental management practices currently employed by MDE when reviewing development and redevelopment permit applications.
- The conditions that MDE could put on a permit are open ended. Unlike other permits, this process does not include a clear standard of review, a performance requirement or technology-based standard that a permitted activity must meet. As a result, there is no limitation on what conditions MDE may put on a permit or clear standard upon which to approve, deny, or modify a permit. The factors that determine the EJ score can change as health, socio-economic or environmental indicators change and for reasons unrelated to the permitted use. This creates another level of uncertainty about where the provisions of the bill might be applied in the future and how overlapping land use designations that may not be well aligned will be resolved.
- Intervention should happen earlier than at permit application. The bill does not address the role of local zoning and comprehensive plans in determining land use in underserved and overburdened communities. As the mapping examples above show, the mapping tool does not take all factors into account and should not be relied upon for decision making at the exclusion of other indicators and policy priorities. Evaluating the suitability of a zoned land use should be done earlier in the land use planning process than is proposed in HB 24. Raising fundamental issues of suitability at the permit application stage makes it more difficult to achieve desired outcomes related to both environmental justice and redevelopment goals. Local land use plans are required to include sensitive areas elements that inform decisions about zoning and permitted land uses in environmentally sensitive areas, Environmental Justice considerations could be incorporated in a similar fashion.

For these reasons, NAIOP respectfully requests your unfavorable report on HB 24.

Sincerely,



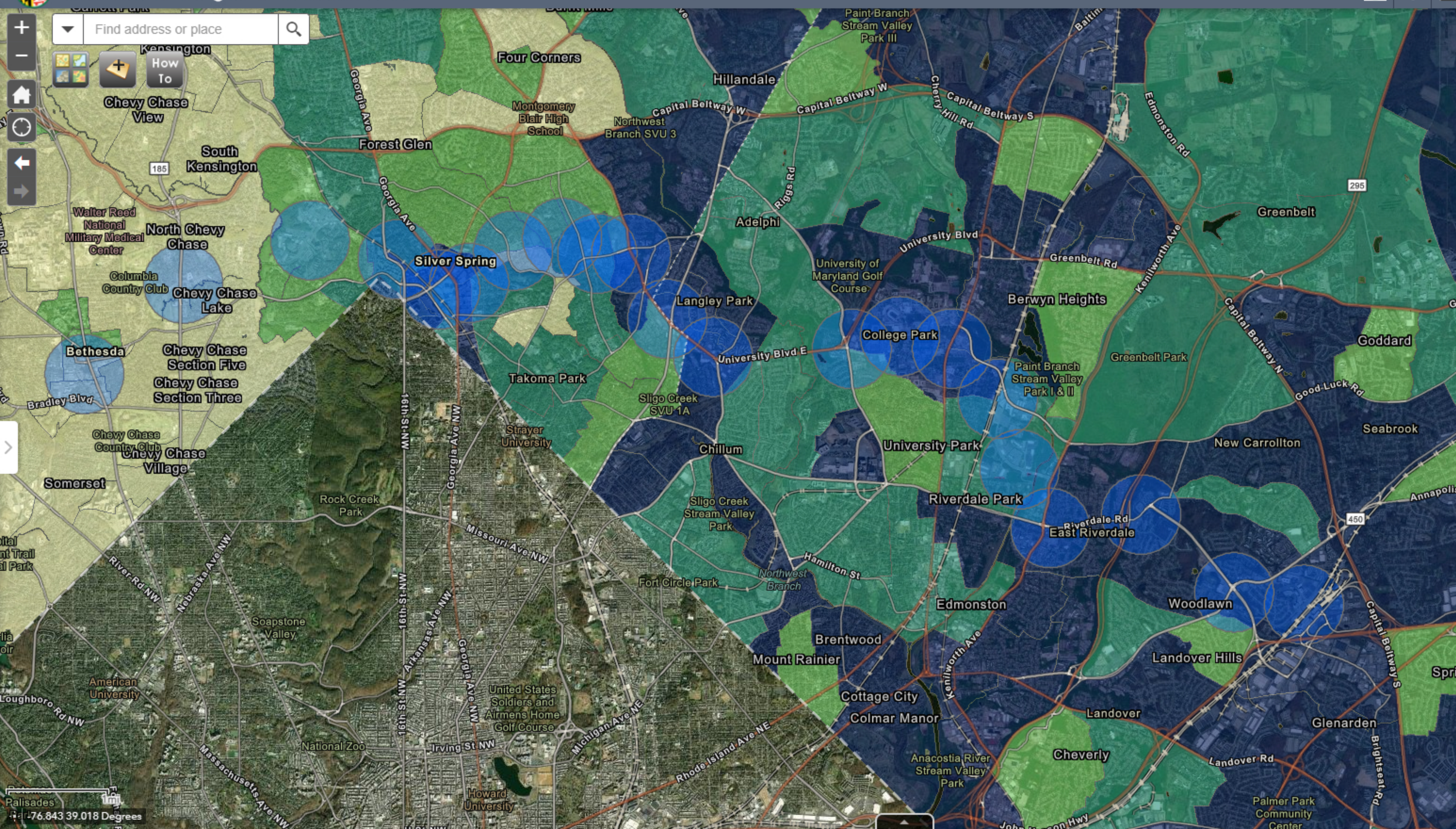
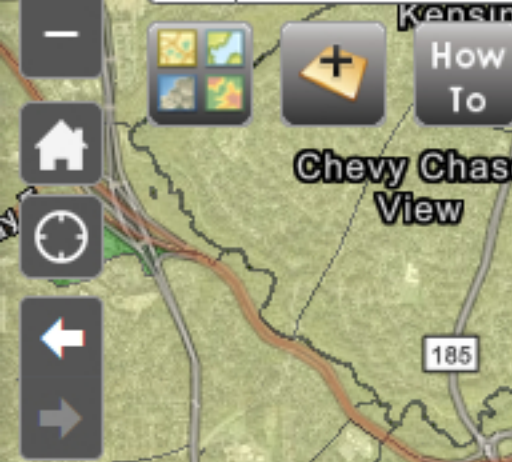
Tom Ballentine, Vice President for Policy
NAIOP – Maryland Chapters, *The Association for Commercial Real Estate*

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

¹ U.S. EPA. Cumulative Impacts Research: Recommendations for EPA’s Office of Research and Development. *U.S. Environmental Protection Agency, Washington, D.C., EPA/600/R-22/014a, 2022, Page 20.*



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Purple Line Station Half Mile Buffers - Purple_Line_Stations_Half_Mile_Buffer

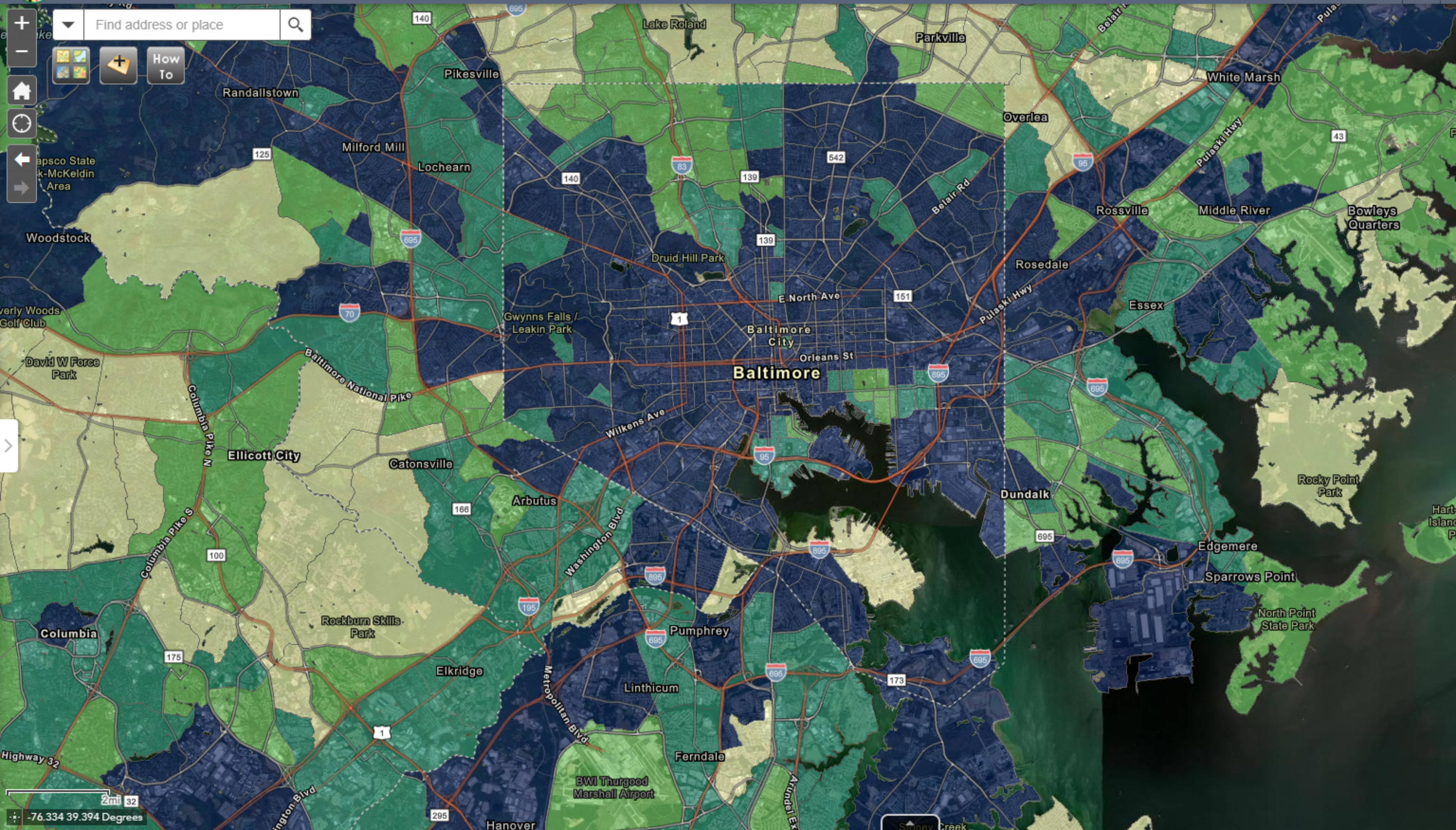
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MDE Final EJ Score (%ile score)

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