



March 1, 2024

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

**Oppose: HB 1449 – Zoning – Board of Appeals Decisions or Zoning Actions – Judicial Review**

Dear, Chair Korman and Committee Members:

On behalf of the NAIOP Maryland Chapters representing seven hundred companies involved in all aspects of commercial, industrial, and mixed-use real estate I am writing in opposition to HB 1449.

This bill broadens those that have standing to appeal land use and zoning decisions to include individuals and associations that meet the federal definition of standing to appeal environmental decisions. These individuals and associations are authorized to seek judicial review of an administrative decision of a board of appeals and legislatively enacted zoning actions which include the adoption of a comprehensive rezoning map or a comprehensive plan.

To establish standing an appellant must demonstrate a negative impact or a threat of a negative impact to the person's health, use and enjoyment of a natural resource or the environment. Their person need only show a negative impact to the person's aesthetic, recreational, conservational, or economic interests.

The rationale for NAIOP's opposition includes the following:

- The broadening of standing proposed in the bill would allow virtually anyone, including out of state residents who recreate on the Chesapeake Bay, to claim potential harms and appeal administrative decisions on individual development site plans, special exceptions, and variances.
- Today, judicial review of development decisions is usually limited to those who are nearby and can show they are impacted in a way that is different than the general public. This bill would allow any person to access the court based on their definitions of harm to their own environmental or aesthetic values.
- The same universe of associations and individuals is also authorized to appeal legislative enactments that adopt comprehensive rezoning maps and comprehensive land use plans. Unlike administrative decisions that are based on evaluating facts and application of regulatory requirements, legislative enactments are based on policy considerations and are generally either not reviewable by the court or reviewed on a limited basis.
- Opening the development review and approval process and the land use planning process to the broad universe of people authorized to appeal in the bill would make implementation of land use and zoning plans perilous and subject to constant delays, second guessing and judicial review. Difficult land use policy decisions made by elected officials would be challenging to implement at the administrative level. The public consensus embodied in comprehensive plans and zoning could be delayed and partially undone by the scope of opinions and appeals that would have access to the courts.

**For these reasons NAIOP respectfully requests your unfavorable report on HB 1449**

Sincerely,

A handwritten signature in blue ink, appearing to read "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.