



March 1, 2023

The Honorable Brian J. Feldman, Chair  
Education, Energy, and the Environment Committee  
Miller Senate Office Building, 2 West  
Annapolis, MD 21401

**Unfavorable: SB 526 – Natural Resources – Forest Preservation and Retention**

Dear, Chair Feldman 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 Senate Bill 526.

Senate Bill 526 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.

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 Senate Bill 526.

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. Senate Bill 526 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.

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 if it were to be replanted at the higher ratios established in the bill.
- Replanting requirements for forest cleared during development are sharply increased. The stacking of mitigation ratios for clearing below retention thresholds, Priority Forest and retention off-site results in more land area dedicated to on-site replanting and reduced buildable area and can result in mitigation ratios as high as 8:1.
- The creation and use of forest mitigation banks is limited, making off-site mitigation difficult. This is critical because urban redevelopment under the Act is required to create new forest if none exists on the site. This is often accomplished through forest banking resulting in better environmental and land use outcomes.

**For these reasons, NAIOP respectfully recommends your unfavorable report on Senate Bill 526.**

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: Senate Education, Energy, and the Environment Committee Members  
Nick Manis – Manis, Canning Assoc.