NAIOP
MARYLAND CHAPTERS
THE ASSOCIATION FOR COMMERCIAL REAL ESTATE

March 9, 2026

The Honorable, Marc Korman, Chair
House Environment and Transportation
Committee 250 Taylor House Office Building
Annapolis, Maryland 21401

Unfavorable: HB 1465 – Stream Restoration Projects – Requirements and Limitations

Dear, Chair Korman and Committee Members:

On behalf of the NAIOP Maryland Chapters representing seven hundred companies involved in all aspects of commercial, light-industrial, and mixed-use real estate, I am writing to recommend your unfavorable report on HB 1465.

Overview of HB 1465

HB 1465 makes major regulatory changes to how Maryland treats stream and floodplain restoration projects for permitting stormwater compliance and mitigation. The bill essentially eliminates the use of in-stream restoration projects for development, redevelopment, MS4 and TMDL stormwater compliance replacing it with a stringent biological-performance based system that requires proof of infeasibility of upland practices before using other methods.

The most impactful components include: **(1)** in-stream restoration projects using mechanized equipment cannot be used for compliance; **(2)** upland stormwater practices must be used to capture stormwater on-site unless an alternatives analysis finds them to be technically infeasible; **(3)** new definition of infeasible does not consider cost, property control, or administrative complexity; **(4)** stream restoration projects cannot qualify for stormwater credits based on Chesapeake Bay Program modeled pollution reductions, instead, biological and ecological improvements must be demonstrated through 5 years of post-construction monitoring.

The implications for development and local government stormwater projects are substantial: higher costs, more on-site stormwater requirements, reduced availability of off-site mitigation, longer permitting timelines, greater approval uncertainty and reduced regional water quality benefits.

Rationale for NAIOP's Position

- Disallowing use of Chesapeake Bay Program water quality modeling of credits will lead to longer, more complex permitting and increased project uncertainty. Today, construction of a stream or floodplain restoration project is given credit for environmental improvements based on pollutant removal efficiencies developed through the Chesapeake Bay Program's water quality modeling. HB 1465 disallows using these modeled stormwater credit values and awards credits only if documented via post-construction water quality monitoring. Because the post-construction monitoring requirement is 5-years, the attainment of credits will take years to verify.
- Narrow definition of "infeasible" eliminates practical considerations required for real-world site design. The new definition of "infeasible" turns that standard into an absolute requirement unless a developer can prove technical impossibility. Upland alternatives must be used unless they are impossible due to physical or engineering constraints. Costs, property control, and administrative complexity cannot be considered.

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For commercial sites—particularly infill, redevelopment, and industrial projects—stormwater solutions often compete directly with parking, truck loading, safety setbacks, and building footprints. These are legitimate constraints that are not captured in the narrow definition of infeasible. Developers will be required to redesign projects around upland stormwater practices even when doing so eliminates square footage, impairs functional site layout, or makes a project economically unviable. Equivalent water quality outcomes can be achieved without imposing these restrictions.

- The "infeasibility" standard converts routine engineering decisions into multi-year feasibility studies. Applicants are required to evaluate a "reasonable range" of non-stream-disturbing alternatives and provide documentation. This means development teams must generate extensive engineering, geotechnical and hydraulic data related to evaluating multiple alternatives,
- Much higher on-site stormwater requirement. Maryland's stormwater regulations already require the use of on-site Environmental Site Design (ESD) to the "Maximum Extent Practicable." Because HB 1465 effectively eliminates off-site compliance options for stormwater management, developers and local governments will use more on-site stormwater management requirements such as large bio-retention ponds, infiltration systems, and underground stormwater infrastructure. These approaches will consume more land area, increase development costs, and reduce the regional water quality benefits that come from stream and floodplain restoration.

Conclusions and Recommendations

HB 1465 takes an overly restrictive approach to determining when upland stormwater practices must be used and puts unnecessary limitations on stream and floodplain restoration projects. By excluding reasonable, real-world considerations, the new definition of "infeasible" will delay projects, increase costs, and undermine county MS4 compliance efforts.

For these reasons, NAIOP respectfully requests your unfavorable report on HB 1465.

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.