

PRIORITY FUNDING AREA LAW & SEWER EXTENSION PROJECTS:

Healthy Waters Roundtable
December 14, 2016

BASICS OF PRIORITY FUNDING AREA LAW

- Purpose
 - The 1997 Priority Funding Areas Act establishes Priority Funding Areas (PFAs) as the mechanism to direct the use of state funding for roads, water and sewer plants, economic development and other growth-related needs.
 - This has been one of the State's only investment tools to influence growth and development



BASICS OF IMPLEMENTING THE PRIORITY FUNDING AREA LAW

- **No Regulations - Just the Law Itself**
Title 5: State Planning, Subtitle 7B: Priority Funding Areas of the
State Finance and Procurement Article
- **The PFA Law is not easy to understand**
 - Provisions can appear conflicting
 - Numerous exceptions to the general rule
 - Often not intuitive or what one would expect

BASICS OF IMPLEMENTING THE PRIORITY FUNDING AREA LAW

- Potentially there may be a number approaches that can be used to have an area qualified as a PFA
- **Local Government Does** the PFA Designation Process
- Call your MDP Regional Planner for Assistance

MDP'S ROLE IN PFA PROCESS

- Custodian of the composite statewide PFA Map
- Review and comment on locally designated PFA designations
- Facilitate local PFA amendments
- Coordinate state agency review of PFA exceptions



IMPORTANT PFA DEFINITION

- The PFA Law only affects “Growth-Related Projects”
 - Growth-related project is defined by the state funding program:
 - Major capital transportation projects (MDOT)
 - Water & sewer revolving loan funds (MDE)
 - Community development assistance (DHCD)
 - Economic development assistance (Commerce)
 - State leases or new office facilities (DGS)

IMPORTANT PFA DEFINITION

- PFA Law does not affect :
 - most state funded programs (particularly non-capital programs)
 - Local funded projects
 - Privately funded projects
- See your Regional Planner or State agency representative about state programs specifics

THE PFA DECODER RING

Decision Matrix for Local Designation of Priority Funding Areas				Defined as Priority Funding Areas by Statute				
				State Finance & Procurement Article	Applicable Jurisdictions	DEFINED BY STATUTE AS PFA		
				§5-7B-02(f)	Municipalities	Baltimore City and all Municipal Corporations. For municipalities incorporated as of Jan. 1, 1937, the municipal boundaries as they existed on Jan. 1, 1937.		
				§5-7B-02(2)(i)-(5)	Counties and Municipalities	Enterprise zones, certified heritage areas, areas located inside the beltways (I-495 and I-695).		
Summary of Criteria for Local Designation of PFA – Post 2006 County and Municipality								
State Finance & Procurement Article	Applicable Jurisdictions	TYPES OF AREAS ELIGIBLE FOR PFA DESIGNATION		PFA Designation Criteria ¹				
				Comprehensive Plan Criteria	Density Criteria ^{2,3}	Service by Water & Sewer ⁴	Analysis of Supply & Demand ⁵	Additional Restriction or Tests
§5-7B-02(f)(i)-(ii)	Municipalities	Areas Annexed by a Municipal Corporation	Annexed after Jan. 1, 1937 and before Oct. 1, 2006	N/A	Must satisfy density & water/sewer service requirements of §5-7B-03 for either Industrial, Employment or Other Than Existing Communities ⁶	N/A	N/A	
§5-7B-03(b) §5-7B-03(c)(1)(2) and §5-7B-03(g)	Counties and Municipalities	Areas zoned or designated for Industrial Use (for Garrett County, Areas Classified in the Comprehensive Plan as Industrial)	If			N/A		
§5-7B-03(c) §5-7B-03(g)	Counties and Municipalities	Areas Principally Used for Employment	If			ig Sewer	Yes	N/A
§5-7B-03(d)		Existing Communities , identified as of January 1, 1937, including vacant land within the Community	If			ig sewer or ed in 10-year plan	Yes	N/A
and §5-7B-03(g)	Counties		If			ig Water	Yes	Funded project must maintain community character and may not increase growth capacity except for infill or "limited periphery development" ⁸
§5-7B-03(e) and §5-7B-03(g)	Counties and Municipalities	Areas Other Than Existing Communities ⁶	If			ig Sewer ⁷		N/A
§5-7B-03(f)	Counties	Rural Villages PFA limited to the periphery of the 1938.	Es			ed for Service year Water & r Plan	Yes	PFA designation must represent a long term policy of orderly development and efficient use of land and public services
							Yes	Funded project must maintain community character and may not increase growth capacity except for infill and "limited periphery development" ⁸



THE PFA DECODER RING: PFA DEFINED BY STATUE

- **Municipalities** §5-7B-02 (1)
 - Baltimore City and all Municipal Corporations. For municipalities incorporated as of Jan. 1, 1997, the municipal boundaries as they existed on Jan. 1, 1997
- **Areas** §5-7B-02 (2) to (5)
 - Enterprise zones;
 - Certified heritage areas (located within a locally designated growth area)
 - Areas located inside the beltways (I-495 and I-695)



THE PFA DECODER RING:

CRITERIA USED FOR LOCAL PFA DESIGNATION

- First Question
 - When was the property being considered to be designated as a PFA developed?
 - Before 1997
 - After 1997 but before 2006
 - After 2006



THE PFA DECODER RING:

CRITERIA USED FOR LOCAL PFA DESIGNATION

- Second Question
 - Is the property in a municipality or unincorporated county?
 - Expansions of municipal residential areas will typically fall under the “Other than Existing Communities” provisions of §5-7B-03 (e)
 - Expansions for county residential areas typically fall under “Existing Communities”



THE PFA DECODER RING: CRITERIA USED FOR LOCAL PFA DESIGNATION

- Third Question
 - What is the proposed land use?
 - Employment
 - Industrial
 - Residential (Existing Communities or Other than Existing Communities)
 - Rural Village (Only County designated villages as of 7/1/1998)



THE PFA DECODER RING: CRITERIA USED FOR LOCAL PFA DESIGNATION

- Fourth Question
 - What criteria does the property have to meet?
 - Identified in the local comprehensive plan as a “Growth Areas”
 - Density Requirement for Residential land
 - Service by Water & Sewer
 - Supply / Demand Analysis (post 2006 development - See Regional Planner - No formal standard in the PFA Law)



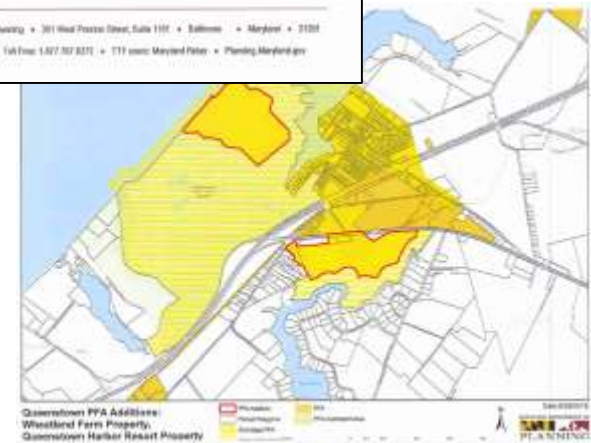
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- Coordinate state agency review of PFA exceptions



PFA MAP AMENDMENT PROCESS

- Local government certifies PFA compliance
- Submit concurrent request to MDP
- MDP reviews for compliance with PFA Law
- MDP supplies PFA determination letter upon request



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PFA EXCEPTION

The PFA Law allows state funding of growth-related projects outside PFAs as “PFA exceptions”

- Two Types of PFA Exceptions
 - Board of Public Works (§5-7B-05)
 - Extraordinary Circumstances Exist
 - Rarely used
 - Smart Growth Interagency Coordination Committee (§5-7B-06)
 - State agencies sponsor PFA Exceptions



PFA EXCEPTION

- Smart Growth Interagency Coordination Committee determines whether the project:
 - is protect public health or safety;
 - involves federal funds and compliance would be inconsistent with federal law
 - is a “growth-related project related to a commercial or industrial activity needs to be located away from other development



PFA EXCEPTION

- Smart Growth Coordinating Committee's review history of projects over 17 years:
 - Approves 9 to 10 PFA Exceptions per year
 - Top Reason - Public Health & Safety; followed by commercial/industrial activity appropriate outside of PFA
 - Process time - one or two months



QUESTIONS?

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