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 of 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
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

<table>
<thead>
<tr>
<th>State Finance &amp; Procurement Article</th>
<th>Applicable Jurisdictions</th>
<th>TYPES OF AREAS ELIGIBLE FOR PFA DESIGNATION</th>
<th>PFA Designation Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Comprehensive Plan Criteria</td>
<td>Density Criteria</td>
</tr>
<tr>
<td>95-78-02(a)</td>
<td>Municipalities</td>
<td>Announced after Jan. 1, 1997 and before Oct. 1, 2006</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Counties and Municipalities</td>
<td>Areas zoned or designated for Industrial Use (for Garrett County, areas classified in the Comprehensive Plan as Industrial)</td>
<td>N/A</td>
</tr>
<tr>
<td>95-78-03(e)</td>
<td>Counties and Municipalities</td>
<td>Areas Primarily Used for Employment</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Counties</td>
<td>Existing Communities identified as of January 1, 1937, including vacant land within the Community</td>
<td>N/A</td>
</tr>
<tr>
<td>95-78-03(g)</td>
<td>Counties</td>
<td>Areas Other Than Existing Communities</td>
<td>N/A</td>
</tr>
<tr>
<td>95-78-03(h)</td>
<td>Counties</td>
<td>Rural Villages PFA limited to the periphery of the 1898 comprehensive plan by July 1, 1937</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Defined as Priority Funding Areas by Statute

- **95-78-02(a)**: 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.
- **95-78-02(b)**: Counties and Municipalities
  - Enterprise zones, certified heritage areas, areas located inside the beltway (I-495 and I-695).
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)
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)
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
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
PFA Map Amendments

- Over 30 PFA maps amendments in 2016
- Approx. 2 weeks for MPD review and map update
PFA Map Amendments

- Recent examples for PFA Map Amendments
  - School expansions
  - Road Projects
  - Water/Sewer projects
  - Annexations (consolidate PFA/Annexation Review)

- Talk with Regional Planner about routine updates to your PFA map
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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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