Implementation of the Smart Growth Areas Act, Fiscal Year 2020

Maryland Smart Growth Subcabinet

Implementation of the Smart Growth Areas Act

Fiscal Year 2020

Special Secretary of Smart Growth Wendi W. Peters (Chair)

Secretary Robert S. McCord, Maryland Department of Planning (Vice Chair)

Secretary Joseph Bartenfelder, Maryland Department of Agriculture

Secretary David R. Brinkley, Maryland Department of Budget and Management

Secretary Kelly M. Schulz, Maryland Department of Commerce

Secretary Benjamin H. Grumbles, Maryland Department of the Environment

Secretary Ellington E. Churchill, Jr., Maryland Department of General Services

Secretary Robert R. Neall, Maryland Department of Health & Mental Hygiene

Secretary Kenneth C. Holt, Maryland Department of Housing and Community Development

Assistant Secretary Carol Anne Gilbert, Maryland Department of Housing and Community Development, Office of Neighborhood Revitalization

Secretary Tiffany Robinson, Maryland Department of Labor

Secretary Jeannie Haddaway-Riccio, Maryland Department of Natural Resources

Secretary Gregory I. Slater, Maryland Department of Transportation

Secretary James D. Fielder, Jr., Ph.D., Maryland Higher Education Commission

Director Mary Beth Tung, Esq., Ph.D., Maryland Energy Administration

Executive Director Gerrit J. Knaap, Ph.D., National Center for Smart Growth Research and Education (ex officio)

The Maryland Smart Growth Subcabinet's FY20 report on the **Implementation of the Smart Growth Areas Act** is submitted in accordance with Annotated Code of Maryland, State Government Article § 9-1406(i). The report summarizes growth-related program commitments of the following state agencies for FY20 to fulfill the requirements of The Smart Growth Areas Act (Annotated Code of Maryland, State Government Article

§ 9-1406).

- Maryland Department of Commerce (Commerce)
- Maryland Department of General Services (General Services)
- Maryland Department of Housing and Community Development (Housing)
- Maryland Department of the Environment (Environment)
- Maryland Department of Transportation (Transportation)

The law defines certain capital projects and funding activities of these state agencies as "growth related."[1] There is no statutory requirement that funding for the Interagency Commission on School Construction (IAC) or the Maryland Historical Trust (MHT) be used within Priority Funding Areas (PFAs). The IAC follows COMAR guidelines for PFA spending.[2] MHT voluntarily seeks to fund projects in PFAs when possible. Expenditures are included separately for informational purposes only.

Introduction

The State of Maryland, through the Governor's Smart Growth Subcabinet (the Subcabinet), is committed to making more efficient and effective investments of taxpayer dollars for infrastructure while preserving the state's rural landscape. Subcabinet coordination has reduced development pressures on critical farmland and natural areas, and increased the availability of funding to spend on roads, schools, and infrastructure to sustain Maryland towns, cities, and rural areas.

In FY20, the statutory framework set out by the Maryland General Assembly in the Smart Growth Areas Act was met by the Subcabinet agencies whose programs are subject to PFA restrictions. The Smart Growth Areas Act allows agencies to seek exceptions to the law for individual projects through one of two avenues - the Board of Public Works[3] (BPW) or the Smart Growth Coordinating Committee[4] (SGCC). The Subcabinet is required to report annually on those exemptions.[5]

Five new projects were granted exceptions by the Subcabinet in FY20 in accordance with the procedures prescribed in the Smart Growth Areas Act (see Appendix A, page 14) and did not violate the intent of the law. There were no exceptions sought by agencies from BPW (see Appendix B, page 17). Appendix C (page 18) notes that no programs and policies were reviewed or revised to ensure compliance with the state's policy. Projects funded under Chapter 759, § 2 of the Acts of 1997 can be found in Appendix D (page 19).

1 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-01.
2 Code of Maryland Regulations, 23.03.02.03(c).
3 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-05.
4 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-06. The law calls for a process to be "established jointly by the applicable state agency and the Department of Planning." Id. (See also Planning Publication No. 2010-009, "Priority Funding Area Exception and Extraordinary Circumstances Process" for more information).
5 Maryland Annotated Code, State Government Article, § 9-1406(h)(1).

Priority Funding Areas

The 1997 Priority Funding Areas Act (the Smart Growth Act) established PFAs to provide geographic focus for state investment in growth and to strategically direct the use of limited state funding for roads, water and sewer plants, economic development, and other growth-related needs. PFAs are existing communities and places where local governments want state funding for future growth. The criteria for PFAs are defined in the Annotated Code of Maryland, State Finance and Procurement Article (SF&P), §5-7B-02 and §5-7B-03. PFAs were established to meet three goals:

1. To preserve existing communities;
2. To make the most efficient and effective use of taxpayer dollars for infrastructure by targeting state resources to build on past investments; and
3. To reduce development pressure on critical farmland and natural resource areas by encouraging projects in already developed areas.

The PFAs and Schools regulation was approved in 2011 as an amendment to COMAR 23.03.02, Regulations for the administration of the IAC. Local Educational Agencies (LEAs) seeking state funding to construct new schools, and replacement schools that increase capacity outside of a PFA must undergo a PFA review. A waiver option is available to LEAs as part of this review process. The 2011 regulations are restricted to school construction projects seeking school site, planning, and funding approvals in the Capital Improvement Program (CIP) for FY13 and beyond.

FY20 Expenditures

FY20 growth-related spending on PFA-restricted projects and programs totaled $2,382,949,456, as reported to the Maryland Department of Planning (Planning) by Housing, General Services, Commerce, Environment, and Transportation.

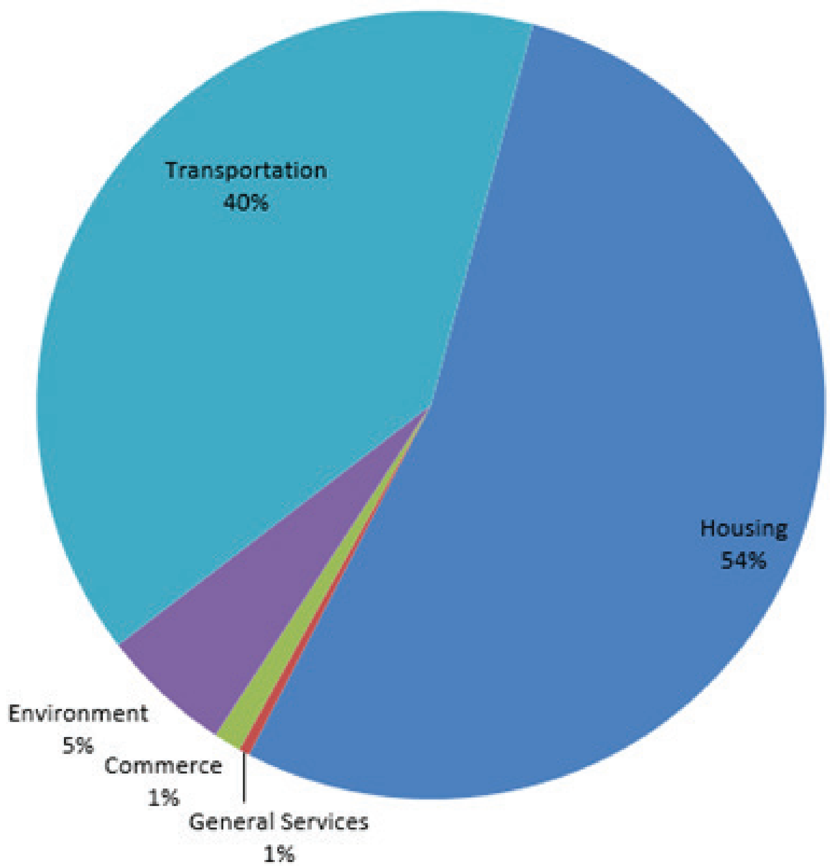
Of that amount, $1,701,228,096, or 71%, of growth-related spending was devoted to projects and programs within PFAs; $36,657,731, or 2%, was devoted to projects outside PFAs; and $645,063,629, or 27%, was devoted to Transportation and Environment projects that were not place-specific.

It should be noted that $31.7 million (86.5%) of the $36.66 million spent outside PFAs was associated with Transportation projects that were exempt, or grandfathered, from the PFA requirements or met the criteria for granting exceptions to the law, as reported by Transportation. The remaining $4.9 million (13.5%) spent outside PFAs were devoted to two Environment projects and two Housing projects, which are detailed in their respective sections.

FY20 Expenditures by Agency for Growth-Related Programs

Program	Total Funding	PFA Funding	Funding Outside PFA	Not Place Specific Funding
Housing	$1,274,087,509	$1,273,487,501	$600,008	$0
General Services	$10,570,333	$10,570,333	$0	$0
Commerce	$26,781,756	$26,781,765	$0	$0
Environment	$128,313,544	$25,963,544	$4,350,000	$98,000,000
Transportation	$943,196,305	$364,424,953	$31,707,723	$ 547,063,629
Total	**$ 2,382,949,456**	**$ 1,701,228,096**	**$ 36,657,731**	**$ 645,063,629**
		71%	**2%**	**27%**

Agency Percentage of Total Funding



The Department of Housing and Community Development

Housing programs defined as growth-related and thus limited to PFAs are:

- The construction or purchase of newly constructed single-family homes by the Community Development Administration's (CDA) Maryland Mortgage Program (MMP), which provides low interest mortgages to qualified first time homebuyers;
- The acquisition or construction of newly constructed multifamily rental housing (NMRH) by CDA; and
- State funded neighborhood revitalization projects, which include funding from Community Legacy (CL), Community Investment Tax Credit (CITC), Neighborhood Business Works (NBW) and Strategic Demolition and Smart Growth Impact Fund (SGIF).

Housing spending outside the PFA in FY20 of $600,008 represents two projects financed under MMP. These loans were not reserved correctly by participating lenders. Program staff have advised the lenders of the error and are working closely with lender partners to assure future compliance. In addition, the program will be running timely reports before loans move through the pipeline to catch and correct errors prior to disbursement of funds. The two projects also appear PFA eligible, and efforts are underway to work with the counties to potentially amend their designated PFAs.

It should also be noted that, although it is not required by the Smart Growth Areas Act, Housing also requires Community Development Block Grants be limited to PFAs. The program is not covered by this act because it consists solely of federal funds and the law covers only state-funded projects.

Maryland Department Housing and Community Development
FY20 Expenditures by Growth-Related Program

Program	Total Projects	Total Funding	PFA Projects	PFA Funding	Outside PFA Projects	Outside PFA Funding	Not Place Specific Projects	Not Place Specific Funding
MMP	212	$67,997,253	210	$67,397,245	2	$600,008	0	$0
NMRH	35	$1,175,522,856	35	$1,175,522,856	0	$0	0	$0
CL	58	$6,000,000	58	$6,000,000	0	$0	0	$0
CITC	66	$1,750,000	66	$1,750,000	0	$0	0	$0
NBW	12	$10,617,400	12	$10,617,400	0	$0	0	$0
SGIF	27	$12,200,000	27	$12,200,000	0	$0	0	$0
TOTALS	**410**	**$1,274,087,509**	**408**	**$ 1,273,487,501**	**2**	**$ 600,008**	**0**	**$0**

The Department of General Services

While it has no capital budget, General Services is responsible for acquiring, leasing, and maintaining most of the state's facilities. Thus, it is responsible for ensuring that the state's growth-related funding is limited to PFAs for state leases of property and land acquisition. However, the law explicitly exempts projects for "maintenance, repair, additions or renovations to existing facilities, acquisition of land for telecommunications towers, parks, conservation and open space, and acquisition of agricultural, conservation, and historic easements."[6]

General Services sends every lease and project to Planning's State Clearinghouse for Intergovernmental Assistance to ensure compliance with the Smart Growth Areas Act.

Maryland Department of General Services
FY20 Expenditures by Growth-Related Program

Program	Total Projects	Total Funding	Projects Inside PFA	Funding Inside PFA	Projects Outside PFA	Funding Outside PFA
Leases of Property	81	$10,570,333	81	$10,570,333	0	$0
Land Acquisition	0	$0	0	$0	0	$0
Total	**81**	**$ 10,570,333**	**81**	**$ 10,570,333**	**0**	**$ 0**

6 Maryland Annotated Code, State Finance and Procurement, § 5-7B-01(c)(2)(i).

The Department of Commerce

Commerce programs – defined by the Smart Growth Areas Act as growth-related – have been renamed and/or consolidated. Programs subject to the law's restrictions include:

- The Maryland Small Business Development Financing Authority (MSBDFA), which provides financing for small businesses that do not qualify for financing from private lending institutions or owned by socially and economically disadvantaged persons;
- The Maryland Economic Development Assistance Authority and Fund (MEDAAF), which provides loans and grants to businesses and local jurisdictions;
- The Economic Development Opportunities Fund (Sunny Day Fund or SDF), which promotes Maryland's participation in extraordinary economic development opportunities that provide significant returns to the state through creating and retaining employment as well as the creation of significant capital investments in PFAs; and
- The Maryland Economic Adjustment Fund (MEAF), which assists businesses with modernization of manufacturing operations, the development of commercial applications for technology and exploring and entering new markets.

Maryland Department of Commerce
FY20 Expenditures by Growth Related Program

Program	Total Projects	Total Funding	Projects Inside PFA	Funding Inside PFA	Projects Outside PFA	Funding Outside PFA
MSBDFA	19	$7,814,997	19	$7,814,997	0	$0
MEDAAF	13	$8,966,768	13	$8,966,768	0	$0
SDF	2	$10,000,000	2	$10,000,000	0	$0
MEAF	0	$0	0	$0	0	$0
Total	**34**	**$26,781,765**	**34**	**$26,781,765**	**0**	**$ 0**

The Maryland Department of the Environment

The following Environment programs are subject to PFA restrictions:

- The Maryland Water Quality Revolving Loan Fund (MWQRLF), which provides financial assistance to public entities and local governments for wastewater treatment plant upgrades, and other water quality and public health improvement projects, and to public or private entities for nonpoint source pollution prevention projects;
- The Water Supply Financial Assistance Program (WSFAP), which provides financial assistance to local government entities for the acquisition, construction, rehabilitation, and improvement of publicly-owned water supply facilities;
- The Supplemental Assistance Program (SAP), which provides grants to local governments for planning, design, and construction of needed wastewater facilities; and
- The Maryland Drinking Water Revolving Loan Fund (MDWRLF), which provides financial assistance to publicly and privately owned community water systems and nonprofit, non-community water systems for projects that address public health, public safety, environmental, or regulatory issues.

A PFA exception is required if any part of the project or area served by the project is outside the PFA. Two projects were funded outside of the PFA in FY20, but received exceptions based on the public health and safety criteria of the law for drinking water system and wastewater treatment improvements located outside of the PFA. The $4.35 million in expenditures outside of the PFA accounted for 3% of total funding. The two MWQRLF projects that are not place specific for $98 million are for stormwater restoration improvements in Prince George's and Montgomery counties.

Maryland Department of the Environment
FY20 Expenditures by Growth Related Program

Program	Total Projects	Total Funding	PFA Projects	PFA Funding	Outside PFA Projects	Outside PFA Funding	Not Place Specific Projects	Not Place Specific Funding
MWQRLF	14	$123,092,348	8	$22,242,348	1	$2,850,000	2	$98,000,000
DWSFAP	3	$2,036,570	2	$536,570	1	$1,500,000	0	$ 0
SAP	1	$756,190	1	$756,190	0	$ 0	0	$ 0
MDWRLF	1	$2,428,436	1	$2,428,436	0	$ 0	0	$ 0
TOTALS	**16**	**$128,313,544**	**12**	**$25,963,544**	**2**	**$3,350,000**	**2**	**$98,000,000**

The Maryland Department of Transportation

For Transportation, growth-related projects include all major capital projects defined as "any new, expanded, or significantly improved facility or service that involves planning, environmental studies, design, right-of-way, construction, or purchase of essential equipment related to the facility or service."[7] Transportation lists such projects in its Consolidated Transportation Program (CTP) as major projects and details the PFA status of each project as part of the annual report. The modal administrations of Transportation for which major capital projects are subject to PFA restrictions include:

- The State Highway Administration (Highways)
- The Maryland Transit Administration (Transit)
- The Maryland Aviation Administration (Aviation)
- The Maryland Port Administration (Port Administration)
- The Motor Vehicle Administration (Motor Vehicles)
- The Secretary's Office
- Payments to Washington Metro Area Transit Authority (WMATA)

Transportation projects that are excluded from the Smart Growth Areas Act include those pertaining to existing Maryland Transportation Authority facilities, studies currently in the project planning phase (pre-decisional), and Minor Capital Projects, and projects that preserve or rehabilitate existing facilities or services without increasing capacity.[8] It should also be noted that 36 of Transportation's major capital projects are not location-specific, meaning that they involve system-wide improvements, such as the bus communications system upgrade and Maryland Area Regional Commuter (MARC) improvements program for Transit, the CIP for WMATA, information technology improvements for Motor Vehicles, the dredged material management program for Port Administration, the regional aviation assistance program for Aviation, as well as the coordinated highway action response team and highway user revenue program for Highways.

There are two Highways projects for which the PFA status has yet to be determined: 1) the Traffic Relief Plan for I-270 (Eisenhower Memorial Highway), and I-495 (Capital Beltway), and 2) the MD 51 (Old Town Road) bridge replacement over Town Creek.

Of the 156 major capital projects in Transportation's capital program for FY20, 12 were considered to be outside the PFA. Of these, four had received final review before the Smart Growth Areas Act was enacted and are thus exempt (grandfathered). These include a Port Administration project for dredge disposal at Hart Miller Island and three Highways projects for construction of a new interchange at MD 5 and 373, and upgrades/widening on the MD 5 (Point Lookout Road) and US 113 corridors.

7 Maryland Annotated Code, Transportation, § 2-103.1(a)(4).
8 Maryland Annotated Code, State Finance and Procurement, § 5-7B-01(c)(1)(i).

Of the remaining projects outside of the PFA, seven have been granted exceptions in compliance with statute. This category includes MD 200 (Intercounty Connector), safety and capacity improvements along MD 32 (Patuxent Freeway) in Howard County, the MD 97 (Georgia Avenue) project at Brookeville, a slope failure project along MD 24, and three bridge replacement projects that were evaluated and shown to add no significant highway capacity. These include bridges on 1) US 40 over the Little Gunpowder Falls/Big Gunpowder Falls, 2) MD 86 over the South Branch of Gunpowder Falls, and 3) MD 273 over Big Elk Creek.

One dredge placement project being prepared by the Port Administration is outside of the PFA boundary and will require an exception. This project is for ecosystem restoration and reflects a beneficial use of dredged material.

FY20 Maryland Department of Transportation
Major Transportation Projects[9]

Program	Total Projects	Total Funding	Projects Inside PFA	Funding InsidePFA[8]	Projects Outside PFA	Funding Outside PFA	Not Place Specific Projects	Not Place Specific Funding
Highways	84	$ 420,433,033	70	$ 152,743,740	10	$ 26,898,993	4	$ 240,790,300
Transit	38	$ 180,186,669	18	$ 138,981,854	0	$ 0	20	$ 41,204,815
Aviation	14	$ 30,539,018	13	$ 28,001,499	0	$ 0	1	$ 2,537,519
Port Admin	12	$ 57,374,478	7	$ 44,697,860	2	$ 4,808,730	3	$ 7,867,888
Motor Vehicles	2	$ 24,463,107	0	$ 0	0	$ 0	2	$ 24,463,107
Secretary’s Office	0	$ 0	0	$ 0	0	$ 0	0	$ 0
WMATA	6	$ 230,200,000	0	$ 0	0	$ 0	6	$ 230,200,000
Total[10]	**156**	**$943,196,305**	**108**	**$ 364,424,953**	**12**	**$ 31,707,723**	**36**	**$ 547,063,629**

9 Reported figures show committed funding as reflected in MDOT’s Consolidated Transportation Program. These figures present the best available approximation of actual fiscal year expenditures although final project figures may vary slightly.

10 Note that beginning in FY15, MDOT was able to improve the accuracy of the spending report to more accurately portray year end invoicing for state-specific funding. As a result, figures for FY15, FY16, FY17, FY18, FY19, and FY20 may not be directly comparable with prior reporting periods in which federal and local funding sources were less clearly broken out.

Maryland Historical Trust Programs

MHT, a division of Planning, limits certain programs related to the PFAs to further the goals of Smart Growth.

MHT gives preference to commercial applicants for the Historic Revitalization Tax Credit (HRTC), formerly known as the Heritage Structure Rehabilitation Tax Credit or the Sustainable Communities Tax Credit, whose projects are located within PFAs. The program provides Maryland income tax credits equal to 20% of the qualified capital costs expended in the rehabilitation of a "certified heritage structure." Projects involving "certified historic structures" that are high-performance commercial buildings or have been approved to receive Low Income Housing Tax Credits may be eligible to receive a 25% credit. Projects in a Qualified Opportunity Zone may earn an additional 5% credit (Level 1) or 7.5% credit (Level 2).

Maryland Historical Trust
FY20 Expenditures

Program[11]	Total Projects	Total Funding	Projects Inside PFA	Funding Inside PFA	Projects Outside PFA	Funding Outside PFA
HRTC Residential	132	$ 1,190,663	123	$ 1,066,356	9	$ 124,307
HRTC Commercial	8	$ 9,068,954	8	$ 9,068,954	0	$ 0
HRTC Small Commercial	30	$ 1,101,380	29	$ 1,051,380	1	$ 50,000
Total	**170**	**$ 11,360,997**	**160**	**$ 11,186,690**	**10**	**$ 174,307**

11 Commercial, small commercial, and residential HRTC figures represent Part 2 approvals for FY20.

Interagency Commission on School Construction

While Maryland public schools are not required by statute to be located within PFAs, the Public School Construction Program (PSCP) follows COMAR guidelines for PFA spending. It is informative to identify the level of secondary school construction funding occurring inside and outside of PFAs to further the goals of Smart Growth.

Established in 1971 as an independent agency, the PSCP became staff to IAC as of June 1, 2018. IAC replaced the former Interagency Committee on School Construction, although the program remains the same. State school funding supports building replacements, renovations, additions, new construction, systemic renovations, and other improvements. While the cost to acquire land and to design and equip public schools is a local responsibility, state and local governments share public school construction costs.

The IAC considers several factors when evaluating proposed capital improvement projects, including how the projects align with local board of education priorities, state construction procedures and procurement practices, and state and local planning and growth policies. School site approval is a prerequisite for planning approval and is valid for five years. Planning approval is required prior to funding approval for most major projects.

Information on expenditures for public school construction for major construction projects for FY20 and FY21 is shown on the chart below. Generally, the amount of major construction expenditures inside PFAs is far greater than outside. For FY20, 89% of the total funds for major construction projects were spent within PFAs. The number of requests for projects in and out of PFAs varies from year-to-year, and funding allocations on most major projects are carried out over several years.

Public School Construction Program FY20 and FY21
Expenditures by Project Type

Total Major Construction Funding	Project Types	Funding Inside PFA	Funding Outside PFA
FY20			
$329,211,905	New	$59,492,000	$0
	Replacement	$132,458,396	$24,139,792
	Renovation/Replacement Projects that do not add capacity	$16,988,000	$13,484,000
	Renovations/Additions/ Replacement Projects that increase capacity	$82,649,717	$0
Total for FY20		**$291,588,113**	**$37,623,792**
FY21			
$309,679,087	New	$63,427,000	$0
	Replacement	$145,522,000	$24,139,792
	Renovation/Replacement Projects that do not add capacity	$19,432,295	$13,484,000
	Renovations/Additions/ Replacement Projects that increase capacity	$43,674,000	$0
Total for FY21		**$272,055,295**	**$37,623,792**

The figures represent the FY20 and FY21 allocation for major construction projects. Public School Construction Program figures listed above do not reflect total FY21 spending for Systemic Projects ($97,404,964).

Appendix A

Exceptions to the PFA Law Approved by the Smart Growth Coordinating Committee

The Smart Growth Areas Act allows for growth related projects located outside the PFAs to receive state funding if: "it is required to protect public health or safety;" the project involves federal funds and "compliance with [the Smart Growth Areas Act] would conflict or be inconsistent with federal law;" or it is a "growth-related project related to a commercial or industrial activity, which, due to its operational or physical characteristics, shall be located away from other development."[12] The Smart Growth Coordinating Committee, or Coordinating Committee, the staff level working group of the Smart Growth Subcabinet, is tasked with approving exceptions based on these criteria.

In FY20, the Coordinating Committee approved five PFA exceptions. PFA exception approval alone, however, does not ensure that projects will be funded. Specific details regarding the PFA exception approvals are as follows:

August 2019 – Garrett Mobile Home Park (St. Mary's County)

Environment requested a PFA exception for public sanitary sewer system connection of the Garrett Mobile Home Park's 30 mobile home sites, the adjacent Cook's Convenience Store, and the Park Hall Post Office, for a total of 32 equivalent dwelling units. The existing onsite sewage disposal system serves all three parcels and has been in a state of failure since 2015. The project connects the mobile home park, convenience store, and post office to the Marlay-Taylor Enhanced Nutrient Removal Water Reclamation Facility. The PFA exception was granted with the condition that the sewer connection is "denied access" to this project and St. Mary's County update its Water and Sewerage Master Plan to reflect the planned sewer service to the three properties.

Agency Submitting Request	Environment
Grounds for Exception	Public health or safety
Funding	Bay Restoration Fund (BRF) – Septic Connections Program, 32 BRF Connections – up to $15,000 per existing mobile home site, food service facility and post office; maximum of $480,000 or actual prorated sewer collection system cost, whichever is lower

12 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-06(a)(3).

November 2019 – 21639 Rosalie Way, St. Clements Shores Community (St. Mary's County)

Environment requested a PFA exception to allow state funding to extend sewer service to 21639 Rosalie Way in the Saint Clements Shores Community. The St. Mary's County Health Department determined the existing septic system for the subject property was failing. The PFA exception was granted with the condition that no additional PFA exceptions would be granted in the St. Clements Shores Community until St. Mary's County Department of Land Use and Growth Management and the Metropolitan Commission develop a long-term plan to address anticipated future onsite septic system failures that would be served by the St. Clements Shores Wastewater Treatment Plant.

Agency Submitting Request	Environment
Grounds for Exception	Public health or safety
Funding	BRF – Septic Connections Program, up to $20,000 per existing property or actual cost whichever is lower

February 2020 – 10215 Livingston Road, Fort Washington (Prince George's County)

Environment requested a PFA exception to allow state funding to be used to extend sewer service to 10215 Livingston Road, Fort Washington. The Prince George's County Health Department submitted a letter dated January 31, 2020 determining the existing septic system for the subject property is currently failing. The PFA exception was granted with the condition that Prince George's County amend its Water and Sewer Master Plan to reflect the planned sewer service to the subject property.

Agency Submitting Request	Environment
Grounds for Exception	Public health or safety
Funding	BRF – Septic Connections Program, up to $20,000 per existing property or actual cost whichever is lower.

April 2020 – Indian Head Manor Subdivision/Inman Utilities Water Interconnection, (Charles County)

Environment requested a PFA exception to allow state funding to be used to extend public water service to the existing 38 residential lots in the Indian Head Manor on a private water system (Inman Utilities) to the Charles County Bryan Road water system. The existing private water system is deteriorating and in need of replacement. The Charles County Health Department submitted a letter dated April 7, 2020 documenting problems with the existing water system and noting the deterioration of the water distribution system must be addressed.

Agency Submitting Request	Environment
Grounds for Exception	Public health or safety
Funding	MDWRLF, $770,800

Appendix B

Exceptions to the PFA Law Approved by the Board of Public Works in FY20

BPW may grant an exception if it determines that "extraordinary circumstances" exist, e.g., "the failure to fund the project in question creates an extreme inequity, hardship, or disadvantage that clearly outweighs the benefits from locating a project in a priority funding area" or it is a transportation project that either maintains the existing system, serves to connect two PFAs, has as its sole purpose of providing control of access on existing highway or "due to its operational or physical characteristics, must be located away from other development."[13]

In FY20, there were no projects submitted to BPW for exceptions to the Smart Growth Areas Act.

13 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-05(a)(3)(iv).

Appendix C

Listing of Programs and Policies Reviewed and Changed To Ensure Compliance with the State's Smart Growth Policy in FY20

The Smart Growth Subcabinet, through its Smart Growth Coordinating Committee, meets monthly to discuss opportunities for state agencies to collaborate and improve the effectiveness of Maryland's Smart Growth policy.[14] In FY20, no specific programs or policies were identified that required review and change to ensure compliance with the state's policy.

14 Maryland Annotated Code, State Government Article § 9-1406.

Appendix D

List of Projects or Programs Approved and Funded Under Chapter 759, § 2 of the Acts of 1997 in FY20[15]

Chapter 759, § 2 of the Acts of 1997 stipulates that the PFA law shall not apply to any project or program for which:

(a) Approval has been granted or a commitment made before October 1, 1998;

(b) A valid permit has been issued;

(c) A commitment for a grant, loan, loan guarantee, or insurance for a capital project has been granted;

(d) Final review under the National Environmental Policy Act or the Maryland Environmental Policy Act is completed by October 1, 1998;

(e) Final review through the State Clearinghouse for Intergovernmental Assistance is completed by January 1, 1999; or

(f) An appropriation has been included by October 1, 1998 in the development and evaluation portion of the Consolidated Transportation Program.

In FY20, Transportation reported that four projects had received final review before the Smart Growth Areas Act was enacted and are thus exempt. These include a Port Administration project for dredge disposal at Hart Miller Island and three Highways projects for construction of a new interchange at MD 5 and 373, and upgrades/widening on the MD 5 (Point Lookout Road), and US 113 corridors. Other than Transportation's projects, no other projects or programs were approved and funded under Chapter 759, § 2 of the Acts of 1997.

15 Maryland Annotated Code, State Government Article § 9-1406(i)(5).

CHANGING
Maryland
FOR THE BETTER

State of Maryland
Larry Hogan, Governor
Boyd Rutherford, Lt. Governor

Maryland
DEPARTMENT OF PLANNING

Maryland Department of Planning
Robert S. McCord, Secretary
Sandy Schrader, Deputy Secretary

Publication Number 2020-105
December 2020