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Suite 1101
301 West Preston Street
Baltimore Maryland 21201

August 29, 2013

Dr. Robert Summers
Secretary of the Environment
Montgomery Park Business Center
1800 Washington Boulevard
Baltimore, Maryland 21230

RE: Accounting for Growth: Infill Definition

Dear Secretary Summers:

I am writing on behalf of the Maryland Sustainable Growth Commission regarding the *Final Report of the Workgroup on Accounting for Growth (AfG) in Maryland (August 2013)* (the "Report"). Section 9 of the Report's recommendations is entitled "Encouraging Sustainable Development Patterns" and lists both "Redevelopment" and "Infill" development projects, specifically defining "Redevelopment" but not "Infill". Section 6 of the Report, entitled "Baseline", reflects the Workgroup's consensus that "Redevelopment" projects should have different offset requirements so as to encourage such projects throughout the state. That section reflects more divergent opinions about whether "Infill" projects should also have different requirements.

I am writing specifically on the issue of "Infill" projects to urge that such projects be treated differently under the AfG policy. This is consistent with the State's Economic Growth, Resource Protection and Planning Policy (a/k/a the "12 Visions") contained in state law, including the mandated policy that "growth is concentrated in existing population and business centers, growth areas adjacent to these centers or strategically selected new centers." *Maryland Annotated Code, State Finance and Procurement Article § 5-7A-01*. Infill projects help to fulfill this mandate, and their development should be encouraged by state incentives, including accommodations in state policies such as Accounting for Growth.

A definition of "Infill" is required to implement this policy. The Commission has discussed potential definitions of "Infill" which might be adopted. An preliminary discussion on July 22 of a draft definition led to the following revised definition prepared by MDP staff:

Infill Exemption Criteria: To qualify as infill and be exempt from stormwater offset requirements, a development must meet these criteria:

1. The development:
 - a. Must occur on vacant, bypassed, or otherwise underutilized land within built up areas of existing communities, where water, sewer & transportation infrastructure is already in place;
 - b. Must occur in a Sustainable Community approved by the Smart Growth Subcabinet (which includes the Department of the Environment) and served by a WWTP with room under its



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- permitted nutrient caps;
 - c. May result in publicly accessible open space and/or recreational land uses, in conjunction with residential and/or non-residential development; and
 - d. Must satisfy local stormwater management requirements for the location and type of development.
2. The development may not occur on land that is:
- a. On the edge of developed existing communities where development is intended to expand on undeveloped land, or on land otherwise isolated from existing communities;
 - b. In public open space use; or
 - c. Forested or other non-urban land use (such as meadow), if more than 1/2 acre of the non-urban land use would be disturbed or converted by construction.

These revised criteria were circulated to the Commission members and others attending the July 22nd meeting for comment. Comments received are appended to this letter. While the Commission ultimately did not take formal action to endorse specific criteria for Infill projects, I am forwarding the above for your consideration and inclusion in the final AfG policy. I would note, however, that the proposed criteria are consistent with the growth offset policy and comply with the TMDL. From a water quality perspective, the criteria would apply to: 1) relatively small properties; 2) pre-developed sites with open urban uses [as opposed to greenfield uses]; and 3) properties that will result in relatively high densities of residential and/or commercial forms of development, in locations served by WWTPs with permit capacity.

We appreciate MDE's work on the Accounting for Growth strategy and your proactive outreach to Maryland stakeholders. We look forward to providing additional input, guidance, and support as you develop this and other important component of Maryland's growth and development policy.

Sincerely,



Jon Laria
Chairman

Infill Exemption Criteria Comments Received

Comment by Del. Steve Lafferty (Growth Commission member):

Thanks for asking for comments on the Exemption Criteria.

I agree that the Sustainable Communities areas make more sense. They are fewer and more narrowly defined by the locals and so, too, should the exemptions. I prefer to see a more limited exemption and this is a good way to attain that goal.

I am concerned that certain terms are not defined (at least not here): "bypassed" or "underutilized land?" relatively small properties"? Who defines these - is it in the local subdivision regulations or zoning?

You also indicate that some of the most important criteria relate to the pre-development land uses; do you mean the types of improvements or is this just about impervious surfaces? Are you distinguishing between commercial, industrial, apartments and SFDs for instance due to the loads? Just trying to be clear.

Not sure I have anything else to offer at this point. Thanks.

Steve Lafferty

Comment by Gwen Wright, Director, Montgomery County Planning Department, MNCPPC
(Representatives of Montgomery County Planning Department attended July 22 Commission meeting)

Dear Mr. Boyd,

I am not sure if Rose Krasnow already responded to you on this matter, but I wanted to make sure that you had comments from the Montgomery County Planning Department.

Our main comment is that Montgomery County would prefer that the Primary Funding Area be used instead of the Sustainable Communities as the basic criteria for exemption. We are concerned about reducing the area that would be exempt from the pollution offset requirements from the PFA to the Sustainable Communities, which will be a considerably smaller area. Montgomery County has yet to designate our Sustainable Communities and we are working with State Planning to resolve this.

Thanks for giving us an opportunity to comment. If this is a duplication of comments already sent to you by Rose Krasnow, I apologize for the redundancy.

Gwen Wright