

BARRIERS TO DEVELOPMENT INSIDE MARYLAND'S PRIORITY FUNDING AREAS

**PERSPECTIVES OF PLANNERS, DEVELOPERS, AND
ADVOCATES**

**A REPORT BY THE
HOUSING STRATEGIES GROUP
AT THE
NATIONAL CENTER FOR SMART GROWTH
RESEARCH AND EDUCATION**



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EXECUTIVE SUMMARY

Passed in 1997, Maryland's Smart Growth and Neighborhood Conservation Initiative took a novel approach to growth management, utilizing the power of the purse to encourage sustainable development. The initiative seeks to discourage suburban sprawl through a targeted spending approach, while also allowing local governments to retain their land use decision-making authority. It required local governments to designate Priority Funding Areas (PFAs) where state infrastructure funding would be focused. Through this tool, the State aimed to promote development and revitalization within Maryland's urbanized areas, while limiting the urbanization of Maryland's rural areas and green spaces.¹

Data from the Maryland Department of Planning, however, suggests that PFAs are having limited impacts. The percent of single-family acres developed outside of PFAs has risen steadily over time.² Development densities have declined in PFAs, with the average parcel size inside PFAs increasing from 0.25 acres in 1990 to 0.28 acres in 2004.³ Despite their disappointing performance, PFAs are anticipated to play key roles in future policies regarding development on septic systems and in PlanMaryland, the state development plan.

Given their growing prominence but questionable efficacy, PFAs warrant further examination. That is the purpose of this study, conducted by the Housing Strategies Group of the National Center for Smart Growth Research and Education at the University of Maryland (HSG), and funded by the Maryland State Builders Association and the NAIOP Maryland chapters. The study relies upon responses to a telephone survey of forty-seven representatives from three key stakeholder groups—planners, policy advocates and consultants, and developers. HSG made every effort to obtain the perspectives of a variety of sources but it is important to note that the survey respondents could not be said to be randomly selected and the sample size is too small for rigorous statistical analysis.

While not presenting new empirical analysis of the influence of PFAs on development patterns across the State, the study does produce new information on how critical stakeholders view the efficacy of PFAs and the barriers to development inside PFAs:

- ***Most respondents think PFAs are only somewhat effective or not effective at all.*** Of those responding to the question, “To what extent have PFAs been an effective urban growth management tool?” 78 percent responded either “not at all effective” or “somewhat effective.” When asked to comment on the effectiveness of PFAs, respondents from each of the three groups interviewed mentioned inconsistencies between state and local planning objectives as contributing to the ineffectiveness of PFAs. In theory, PFAs can provide the opportunity to reduce uncertainty and development costs by coordinating state and local infrastructure investments. There have also been examples of local governments reducing impact fees and providing expedited review processes within their PFAs, but these cases are generally more the exception than the rule. Most suggested that PFAs are either ignored in the local planning process or

create additional impediments to local planning, because existing land use patterns and development rights predated the establishment of PFAs. In one jurisdiction, local growth areas are intentionally drawn to be larger than PFAs to create a “buffer” between existing urbanized areas and areas planned for future growth. In explaining continued growth outside PFAs, planners in particular pointed to legacy zoning and grandfathered permits. Others pointed to consumer preferences and the relative ease of development outside PFAs from the regulatory and community opposition perspectives. When development does occur within PFAs, state policy is often less a factor than the strength of the local market for PFA development.

- ***Most respondents think it’s more difficult to develop land inside than outside PFAs.*** When asked, “Holding other things constant, do you believe it is more difficult to develop land inside or outside PFAs?” respondents citing “inside” PFAs outnumbered those citing “outside” by almost four to one. A large percentage (29 percent) also indicated that designation inside or outside a PFA had no impact on the difficulty of development. Several indicated that the difficulties arise not from spatial differences in regulations but in how they are applied. Citizen opposition, for example, can be more severe within PFAs, because the higher density of development implies satisfying a larger number of constituencies. The difficulty of assembling multiple parcels of land makes “staging” of development inherently more difficult. Parking must often be built as structured parking below-grade, increasing construction costs. Utility easement requirements (i.e. 10-foot right of way requirements) often inherently favor suburban development. Environmental regulations, while not directly designed to discourage development within PFAs, may be more difficult to satisfy due to the higher probability of soil contamination combined with additional requirements to achieve LEED certification. Satisfying APFO requirements can also be more difficult within PFAs where roads, schools, and other facilities are more burdened.
- ***Citizen opposition, consumer preferences, APFOs, scarcity of zoned land, lack of infrastructure, and stormwater management regulations are the most commonly-cited constraints to developing inside PFAs.*** Respondents were asked to identify from a list of conditions, which were impediments to development or redevelopment inside PFAs and which were among the top three impediments. The most frequently cited impediments include stormwater management regulations and citizen opposition. Respondents from all categories suggested that recent changes in the State’s stormwater mitigation requirements make redevelopment within existing urban areas more difficult. When asked to prioritize the impediments, the most frequently cited items included citizen opposition, APFOs, scarcity of zoned land, and lack of infrastructure. Combined, these suggest that local regulatory processes requiring substantial citizen review, which are also tied to local infrastructure capacity constraints through APFOs, or ad-hoc moratoria can impose significant constraints to development within PFAs. Respondents also identified quality-of-life considerations, particularly schools and crime, as

influencing market demand within PFAs. Developers remarked that inconsistencies between current soft-market realities combined with stringent regulatory constraints limit the feasibility of development within many PFAs. Inappropriate requirements for ground-level retail square footage, parking, stormwater management, and environmental standards are some examples of such inconsistencies.

- ***High rise apartments and mixed use developments are viewed as the most difficult products to develop within PFAs.*** All three groups indicate that while the market for multifamily and mixed-use projects is strongest within many PFAs, these development types are also the most difficult to capitalize and bring to completion. When asked to elaborate, citizen opposition, land availability, economic return and infrastructure capacity were all frequently-cited constraints facing developers of these project types. Several respondents also pointed to a general lack of understanding among the public about mixed-use developments and their potentially beneficial community impacts.
- ***Zoning and the adequacy of infrastructure are viewed as the most influential public policy tools.*** When asked, “Which of the following planning tools is the most important determinant of whether or not a development or redevelopment projects will be approved on a given parcel of land?” a parcel’s status vis-à-vis the PFA made little difference, according to the three groups interviewed. The most important determinants of development approval are the parcel’s zoning and the existence of adequate infrastructure. Policy advocates also point to the importance of local public support and political leadership.

Survey respondents identified a number of ways to improve development conditions in PFAs, ranging from limiting the length of APFO restrictions to reducing impact fees and lowering level of service requirements for certain types of infrastructure inside PFAs. Other recommendations included expediting the state agency review processes and lessening stormwater management and other environmental protection requirements for projects inside PFAs.

Based on the findings of this and previous studies, HSG offers the following recommendations:

- Require that PFAs be consistent with growth areas, incorporated into comprehensive plans and be reviewed as part of the comprehensive plan review process every ten years. Currently, PFAs are not required in comprehensive plans, which are reviewed every six years.
- Require that PFAs contain sufficient development capacity for 20 years of residential, institutional, commercial, and industrial growth. Currently, PFA capacity criteria include only residential development.
- Provide local governments with greater flexibility in constructing PFAs if they place greater restrictions on development outside PFAs. This recognizes that “one size does not fit all” when it comes to PFAs across the State and would

provide local governments some flexibility on the size of PFAs if they restrict development outside PFAs.

- Require local governments to include a housing element in their comprehensive plans that permits, but does not require, high density and mixed use development.
- Establish minimum zoned density requirements that vary for urban, suburban, and rural PFA communities.
- Enable local governments to reduce regulatory restrictions (e.g., road service standards, stormwater management and forest preservation requirements) inside PFAs, especially in transit station areas.
- Limit development moratoria from adequate public facilities ordinances to four years. If moratoria cannot be lifted in four years, require local governments to increase development capacity elsewhere.
- Target state infrastructure spending in areas within PFAs under adequate public facilities ordinances moratoria.
- The State should work with local governments and other development stakeholders to further identify barriers to growth specific to the PFAs within each jurisdiction. Collectively they should work to identify options for overcoming these barriers.
- The State should work with local governments to periodically conduct a statewide infrastructure needs assessment as well as a review of growth related capital funding approved and planned by the state and local governments.

INTRODUCTION

A widely accepted objective of smart growth is to concentrate growth and development in urban areas and to discourage it in rural areas. In Maryland, the primary policy instruments used by state government to pursue this objective are Priority Funding Areas (PFAs). PFAs are drawn by local governments, certified by the Maryland Department of Planning, and serve as targets for spending on certain “growth related” state government programs. According to the Maryland Department of Planning, PFAs have three goals:

- To preserve existing communities;
- To make the most efficient and effective use of taxpayer dollars for costly infrastructure by targeting state resources to build on past investments; and
- To reduce development pressure on critical farmland and natural resource areas by encouraging projects in already developed areas.⁴

The extent to which PFAs are meeting these goals, however, is unclear. According to data provided by the Maryland Department of Planning, since the mid-1980s, approximately 25 percent of new single family units and 75 percent of newly developed single family acres have been developed outside PFAs statewide.⁵ The average size of parcels inside PFAs has been increasing while the average size of parcels outside PFAs have been decreasing.⁶ Reports by Environment Maryland⁷ and the National Center for Smart Growth⁸ suggest that PFAs have had limited, if any, impact on development patterns. The PFA subcommittee of the Task Force on the Future for Growth and Development considered but could not find consensus on several proposals for PFA reform.

Despite the lack of evidence supporting their efficacy, the importance of PFAs is likely to increase. PFAs play a central, though understated, role in PlanMaryland as recently adopted by Governor O'Malley by Executive Order. PFAs are featured prominently in the recently released recommendations of the Task Force on Sustainable Growth and Wastewater Disposal. And the septic bill submitted in 2011 by Governor O'Malley, and expected to be resubmitted in 2012, would place severe limitations on development outside PFAs.

Given their growing prominence but questionable efficacy, PFAs warrant examination. That is the purpose of this study, conducted by the Housing Strategies Group of the National Center for Smart Growth Research and Education at the University of Maryland (HSG), and funded by the Maryland State Builders Association and the NAIOP Maryland chapters. The study does not present new empirical analysis of the influence of PFAs on development patterns across the State; instead, based on interviews of 47 land use stakeholders, it presents new information on how critical stakeholders view the efficacy of PFAs and the barriers to development inside PFAs.

PRIORITY FUNDING AREAS

Priority Funding Areas are the centerpiece and most innovative of Maryland's smart growth tools.⁹ Unlike urban growth boundaries in Oregon, which identify where growth can and cannot go, PFAs are intended to direct growth by identifying where state spending from certain state programs can and cannot go. By statute, PFAs automatically include Baltimore City, incorporated municipalities, areas within the Baltimore and Washington beltways, and areas designated by the Department of Housing and Community Development for revitalization, enterprise zones, and heritage areas. In addition, counties may designate additional areas as PFAs based on land use, developed density, zoned density, water and sewer service, and supply and demand criteria.¹⁰ Criteria for delineating PFAs are based on both actual and permitted densities which, through political compromise, were set at 3.5 units per net acre for all parts of the State. While the statutes did not specify a particular planning horizon, accommodating 20 years of growth became the benchmark standard for PFAs. Although PFAs can be amended at any time with approval of MDP, there is no requirement that once established, PFAs need ever be reviewed or revised.

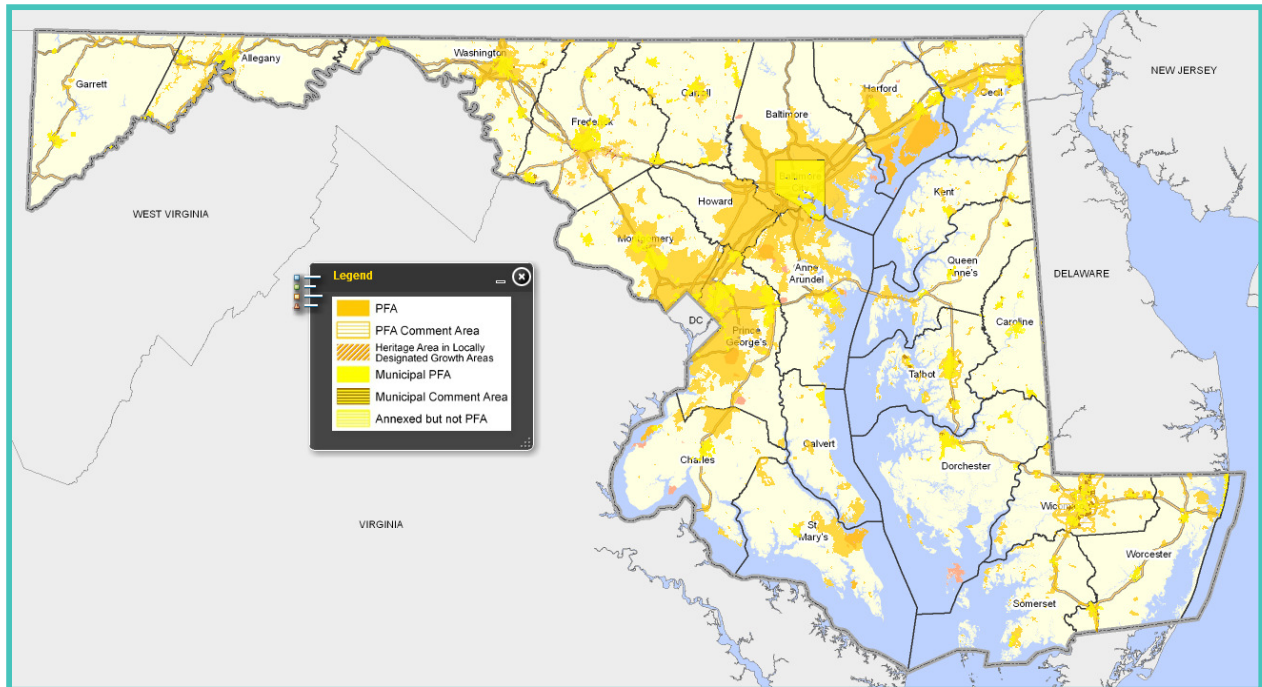
According to the 1997 legislation, local governments were required to submit PFA boundaries to MDP by October 1, 1998. And with minor exceptions, the delineation of PFAs was completed relatively quickly and without public engagement. Some counties, particularly those in the State's central corridor, drew PFAs based generally on growth areas within existing comprehensive plans. Other counties, particularly those in Western Maryland, included within PFAs most areas meeting the statutory criteria, regardless of whether they were within growth areas. Still other counties, particularly some on the Eastern Shore, included within their PFAs more land than MDP deemed necessary to accommodate 20 years of growth. As a result, MDP designated some parts of these PFAs as: "County Certified Area; Area Not Meeting Criteria" or "comment areas" in short.¹¹

Since first drawn, PFAs have changed little over time. According to MDP, total area within PFAs grew approximately two percent from 2000 to 2005. The only major expansions during that time occurred in St. Mary's, Somerset, Anne Arundel, Queen Anne's, and Dorchester Counties, and most involved municipal annexations. The single largest addition to PFAs was the Naval Air Station in St. Mary's County, which was added in 2004.¹²

Because the PFA law is directed at spending by state agencies, the provisions that govern PFAs are found in the State Finance and Procurement Article of the Maryland Code: State Planning – Priority Funding Areas (5-7B). The statutes that govern planning and zoning are found in Article 66B: Land Use. Thus, there are no requirements that PFAs appear in comprehensive plans and the extent to which PFAs are consistent with planning and zoning at the local level depends largely on local discretion.

PFAs are intended to shape growth patterns by targeting state spending on "growth-related" projects in PFAs. By statute, a "growth-related" expenditure is "any form of

assurance, guarantee, grant payment, credit, tax credit, or other assistance, including a loan, loan guarantee, or reduction in the principal obligation of, or rate of interest payable on, a loan or a portion of a loan” (Maryland Code Annotated). This “growth-related” spending consists of specific programs by the Maryland Department of Environment, Department of Housing and Community Development, Department of Business and Economic Development, and Maryland Department of Transportation.¹³



Map of Maryland's currently designated Priority Funding Areas. Source: Maryland Department of Planning (<http://mdpgis.mdp.state.md.us/pfa/>).

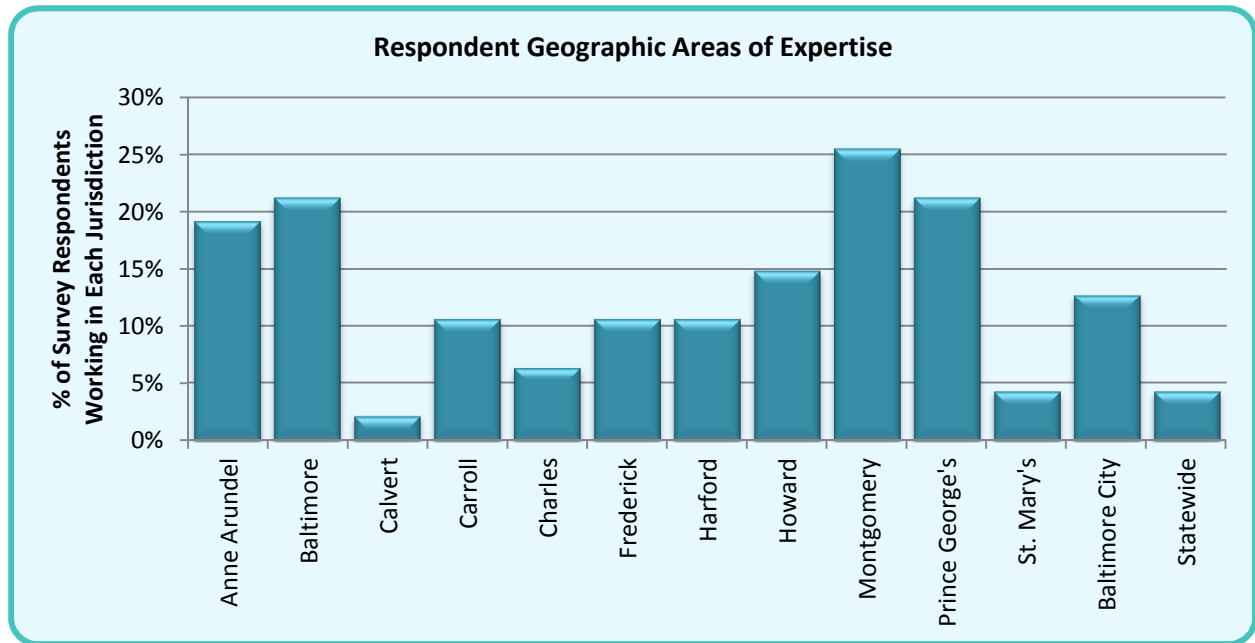
The total amount of “growth related” spending is a relatively small portion of the overall appropriated state budget, and most of that consists of spending on transportation. According to the National Center for Smart Growth, total appropriated capital and transportation funds that were “growth-related” from 1998 to 2007 averaged approximately \$1.1 billion per year, or approximately five percent of the total annual state budget over the same period. Spending by the Maryland Department of Transportation constitutes approximately 85 percent of all “growth-related” capital and transportation appropriations.¹⁴

METHODS

Unlike previous studies on PFAs, which were based primarily on primary data analysis, this study is based entirely on a survey of Maryland planners, developers, and advocates.

Specifically, in this study the Housing Strategies Group interviewed representatives from 20 county and municipal planning departments in the Baltimore, Washington and Southern Maryland regions. Researchers also interviewed 15 “advocates,” including planning consultants, land use attorneys, organizers from local community-based

groups, and staffers at prominent statewide nonprofit advocacy organizations. Finally, researchers spoke with 12 developers selected from a list provided by the study sponsors. This too was a wide-ranging group, including firms specializing in commercial and mixed-use developments, urban infill development, traditional single-family tract homes and industrial development. HSG made every effort to obtain the perspectives of a variety of sources but it is important to note that the survey respondents could not be said to be randomly selected and the sample size is too small for rigorous statistical analysis. The results should therefore be interpreted as indicative and not definitive.



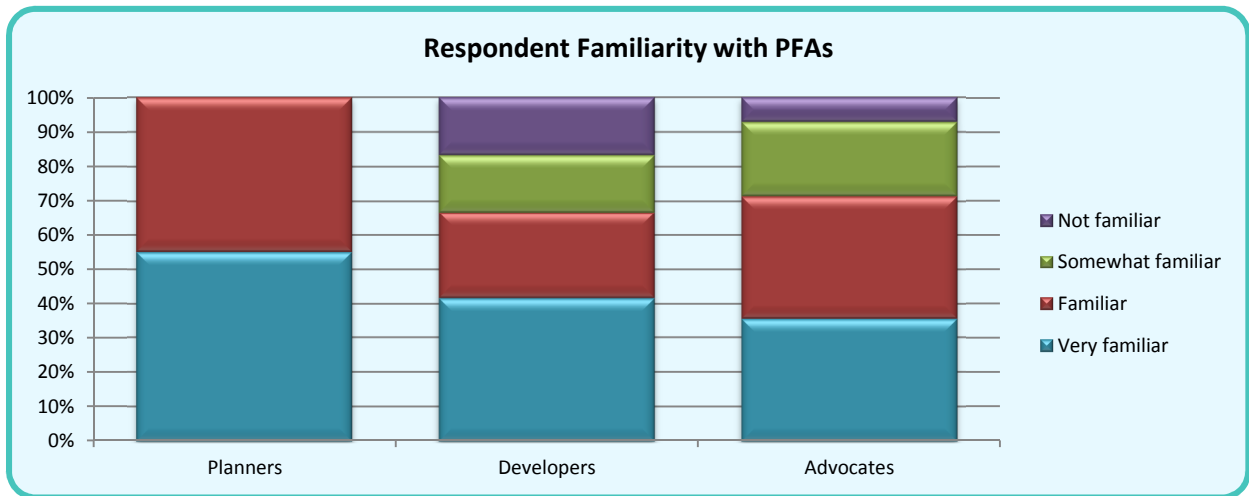
HSG produced surveys tailored to each stakeholder group, featuring both open-ended and multiple-choice questions. The multiple-choice questions were used to generate summary statistics, indicating general trends. While the open-ended questions protect the anonymity of the respondents, they provide valuable supporting anecdotes for the findings. With these results, this study is able to assess the effectiveness of PFAs and some of the barriers to development within desired growth areas.

THE EFFECTIVENESS OF PFAS

Familiarity with Priority Funding Areas

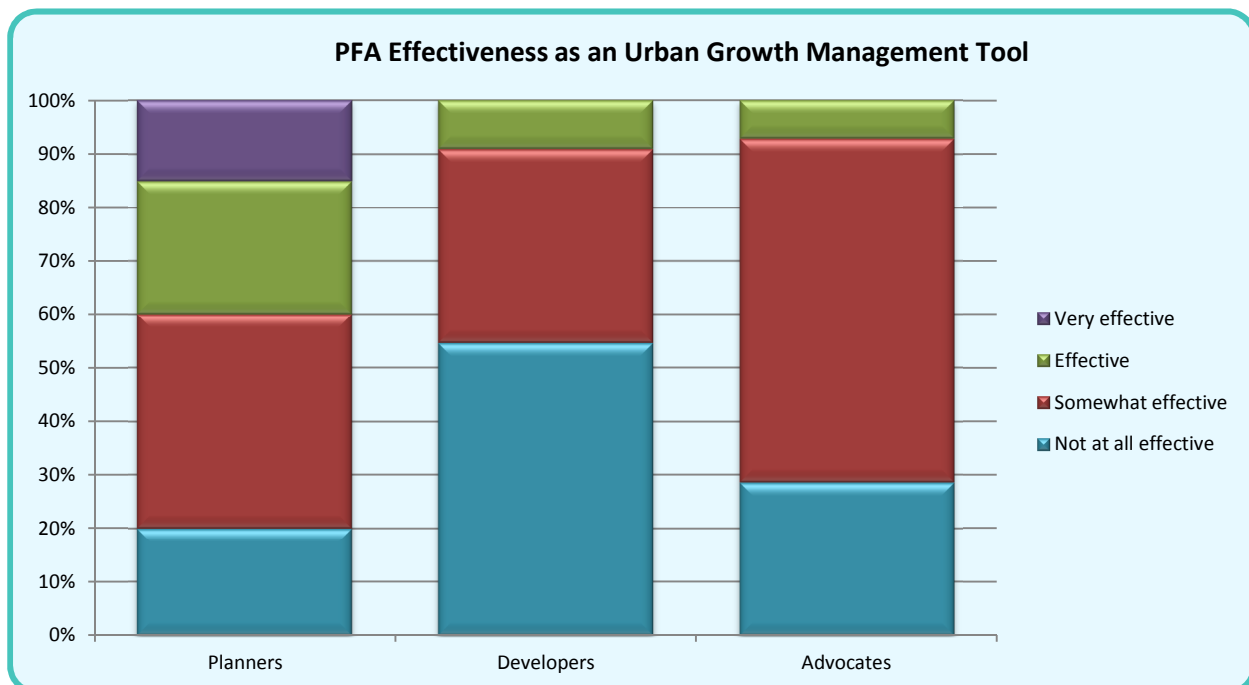
Familiarity with PFAs varied across the various set of stakeholders. As would be expected, all 20 planners we surveyed indicated they were either 'familiar' or 'very familiar' with PFAs – including the eight planners from municipalities, which are automatically considered PFAs. Surprisingly, there were a couple of developers we surveyed who indicated they had never even heard of PFAs until they were approached to participate in our survey. These were developers that tend to focus their work in urban areas of the State, and so the question of inside/outside PFAs has not been

something they have encountered with their work. Overall, 81 percent of survey respondents indicated that they were either ‘familiar’ or ‘very familiar’ with PFAs.



Extent to which PFAs have been an effective urban growth management tool

Planners were most likely to view PFAs as an effective urban growth management tool – 80 percent indicated that PFAs are at least ‘somewhat effective,’ with three planners describing PFAs as ‘very effective.’ Planners often cited consistency between PFAs and the jurisdiction’s designated growth areas as contributing to the effectiveness of the PFA program. Those that were more skeptical of the program emphasized a lack of reliance on the program. One explained that the intent and idea is good, but implementation is inconsistent around the State because of local government decisions. Still others found the program completely ineffective, explaining that the State’s funding incentive is not



strong enough to control growth and as a result PFAs are ignored in local land use planning.

Developers and advocates, on the other hand, were more critical of the program – 55 percent of developers and 27 percent of advocates suggested that PFAs are ‘not at all effective.’ Some developers cite the interaction of PFAs with local regulatory hurdles such as adequate public facility ordinances (APFOs) as impeding the effectiveness of PFAs to attract growth. One developer highlighted the battle between state and local governments as impacting PFA effectiveness, noting that growth management is a function of local government, but PFAs are established by the State. As a result counties never invoke requirements related to PFAs. One advocate respondent emphasized the ineffectiveness of state funding incentives to direct rural growth to smaller towns and cities in Maryland.

One developer, who viewed the PFA program as ‘effective,’ explained that the opportunity to save time and money by building in PFAs can be attractive. The program is more effective when local jurisdictions have lower impact fees and faster approval processes inside PFAs. Though what we heard more generally from developers was that such conditions do not exist across much of the study area. Others who found the PFA program effective cited Rockville Town Square, Downtown Silver Spring, and the arts district in Hyattsville as examples of places where growth has effectively been directed within PFAs, though it is not clear the impact PFAs had on the success of these projects.

In fact many respondents, who seemed more indifferent to the program, indicated that growth in PFAs is somewhat coincidental. They contend that developers have worked inside PFAs, but not because of the policy. Developers attributed much of the commercial and industrial development occurring in PFAs to the nature of the type of development and the location of commercially zoned land available for development and redevelopment. Existing infrastructure capacity and financial incentives such as tax increment financing, payments in lieu of taxes, tax abatements and brownfields programs also influence development decisions. From a residential consumer perspective, one developer explained that the recent recession has had more of an impact than PFAs, making dense urban development with lower transportation costs more attractive than sprawling development on large lots in rural areas.

Why development has occurred outside PFAs

When asked to explain the considerable amount of development that continues to occur outside PFAs, respondents generally identified six categories of factors:

- **Consumer preferences.** All three groups of respondents identified market demand or consumer preferences as a major cause of growth occurring outside PFAs. Many planners felt that consumer preferences, particularly those of families with children, trend toward living outside of urban areas. The American dream of a yard and picket fence remains strong according to these planners, which came from both municipalities and counties, as well as both urban and rural parts of the State. Such consumer preferences make the dense development

desired inside many PFAs unattractive. Some planners from rural counties were critical of the general appeal of their growth areas, indicating that unlike Bethesda or Chevy Chase in Montgomery County, their growth areas need to be more attractive and better marketed to be viewed as an option by consumers.

Like the planners we interviewed, developers placed a great deal of emphasis on the impact of buyer preferences on development patterns. While they acknowledged that market demand for large lots is highest when the economy is strong, developers felt that even in a down economy homebuyers are still attracted to rural areas with larger lots, lower prices, better schools and lower crime rates.

- **PFAs are intrinsically weak.** Several planners point out that—in contrast to regulated growth limits established through urban growth boundaries—the incentive-based PFA system does nothing to explicitly prevent development from occurring outside PFAs. Instead, it is intended to provide an incentive to direct growth within PFAs. Several local planners from across the study area, however, indicated that the PFA framework does not provide a large enough incentive to impact development patterns in their jurisdictions. Even within PFAs, the role of the state government and the impact of PFA funding are limited. Advocates tended to agree that PFA incentives are inherently weak at promoting smart growth. Some advocates contend, and several developers agreed, that there is a need for more incentives to encourage infill or redevelopment in urban areas. In general, however, advocates felt it was necessary to have both funding and regulations to incentivize development within PFAs and disincentivize it outside PFAs.
- **It's not us, it's them.** Several planners were quick to disassociate their jurisdiction from those that continue to allow growth outside PFAs. Baltimore County planners noted that 90 percent of its residents live inside its PFAs. Howard County planners touted an 8 percent share of newly developed parcels located outside PFAs. By comparison, the statewide average is about 25 percent. At least one developer corroborated Howard's claim to have done an effective job of targeting growth in PFAs. From a development perspective, Howard County planners felt that their PFAs did not compete for development with areas outside the PFAs in their own county, but rather with areas outside PFAs in neighboring counties where there are fewer restrictions on rural development.

Similarly, a planner in Montgomery County felt limits on growth in the county's agriculture reserve, which predates the PFA law, effectively push growth into the county's PFAs. The planner also contends that more lenient limitations on rural growth in neighboring counties are of greater concern. Development in these counties (generally on septics), result in road congestion and stream pollution in Montgomery County, suggesting a need for more regionally based planning.

- **Regulatory impacts and other obstacles inside PFAs.** First and foremost, developers noted the relative ease with which they can develop outside PFAs

compared to inside PFAs. Many planners and advocates agreed with this sentiment. Development inside PFAs tends to be more controversial, involve more stakeholders, carry more regulatory burdens, and result in more legal battles, according to developers. What makes development inside PFAs more difficult, however, is not the PFA designation per se, but rather the attributes of communities that tend to be located inside versus outside PFAs. Communities inside PFAs are more densely populated and therefore often have more people who speak out against proposed development projects and regulatory changes that would facilitate growth within PFAs. Developers repeatedly indicated, and advocates agreed, that projects outside PFAs experience less community opposition. For example, rural schools tend to have fewer capacity issues, which is often one of the first things community activists point to in opposition of a project.

Advocates also described the difficulty of redeveloping urban areas, when it is necessary to assemble multiple parcels with multiple property owners. One advocate described this as an “enormous problem than neither the State nor counties have addressed.” Another, however, noted that some of the larger counties have been known to use their eminent domain powers to help to acquire parcels.

One advocate suggested that state regulations make expansion of public water and sewer in urbanized areas harder than installing private well and septic in more rural areas of the State. Furthermore, forest conservation regulations inside PFAs or areas designated for transit-oriented development eliminate incentives to develop inside PFAs by driving up the cost of development.

Some local planners also described state forest conservation and stormwater regulations as being at odds with developing at higher densities inside PFAs and thus facilitating sprawl and greenfield development. The regulations, they contend, may make sense in rural areas, but not in urban areas. Meanwhile, planners from one rural county described residential development outside PFAs as being “untethered” and the “path of least resistance.”

But according to some developers, it is not just state regulations that deter growth in PFAs. They contend that local zoning and stormwater regulations that go beyond state requirements inside PFAs often make it difficult to achieve allowable densities. Additionally, local APFO moratoria seem to be triggered more often inside PFAs according to some developers, most likely a consequence of the denser communities within PFAs as well. Some advocates and planners also cited APFOs as restricting growth in PFAs, however, others contend that APFOs have an equal impact on restraining growth outside PFAs. Several planners lamented the lack of infrastructure to accommodate growth inside PFAs, and furthermore the lack of resources to supply the needed infrastructure.

- **Higher development costs inside PFAs.** Related to the relative difficulty in developing inside PFAs, but worthy of its own discussion because it was

mentioned so frequently by developers, is the higher costs associated with developing inside PFAs. In particular, water and sewer connection costs have “skyrocketed” according to one builder. Even from the consumer perspective, one developer speculated that the increased transportation costs associated with living outside PFAs (shopping is farther away, jobs are farther away, and transit is either non-existent or not accessible) are outweighed by the high rent rates inside PFAs.

- **Grandfathered approvals and ‘legacy zoning.’** Other planners acknowledged that the rate of growth outside their PFAs may not be ideal from the State’s perspective. In general, these planners suggested that where they focus growth is their prerogative and not the State’s. Yet others explained development outside their PFAs as inevitable given conditions that existed prior to the passage of the law in 1997. For instance, Calvert County has vacant lots on properties that were subdivided in the 1940s that are still eligible despite not being located within a PFA. The County has begun a transfer of development rights program to assist in retiring these lots. A planner from another similarly situated county indicated that growth outside the county’s PFAs was in large part due to grandfathered approvals that have taken a long time to develop. These planners suggest that it’s difficult to evaluate PFAs at this point because there are still permits for development that predate the PFAs. Similarly, planners from more populated counties point to land use patterns and zoning rights that predate the establishment of PFAs. At least one advocate shared a parallel concern, lamenting the residual effects of transportation infrastructure put in place decades ago.

The relationships between PFAs, designated growth areas and comprehensive plans

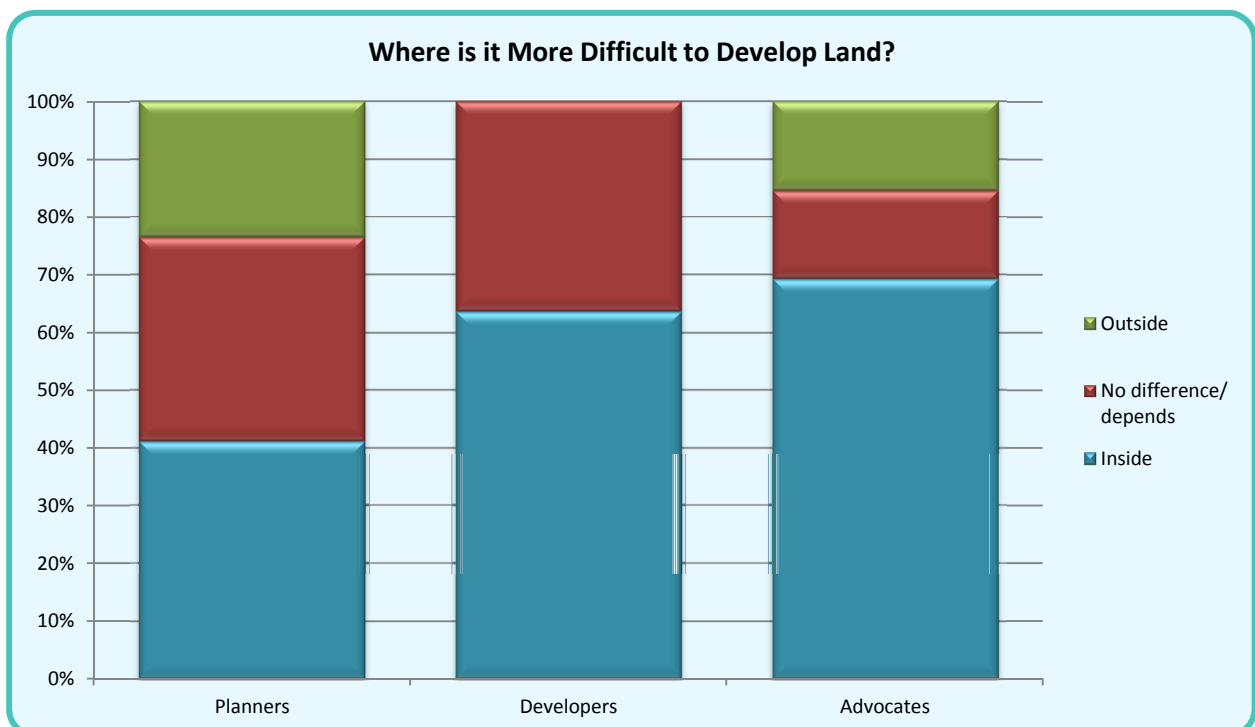
County planners were asked to describe the relationship between their county’s PFAs and designated growth areas, as well as how PFAs are addressed in their comprehensive planning process. Planners from five of the 12 counties indicated that their PFAs were generally smaller than the areas designated for growth within their county. In one jurisdiction, local growth areas are intentionally drawn to be larger than PFAs to create a “buffer” between existing urbanized areas and areas planned for future growth. The planners from the other seven counties all suggested that their PFAs and growth areas were identical. Some planners highlighted the fact that PFA boundaries have not changed, despite having adjusted growth areas through the comprehensive planning process. In fact, one planner stated that their county paid no attention to the PFA boundaries when it designated its growth areas in its most recent comp plan. Planners from another county stated directly that PFAs are an “after thought” in the comprehensive planning process and that their comp plan makes no mention of PFAs at all. Though not all planners completely concurred; planners from two counties indicated that they amend their PFA boundaries based on their comprehensive plans, after the plans are adopted. By contrast, planners from another county indicated that they used their PFAs to define their growth areas in their comp plan.

BARRIERS TO GROWTH INSIDE PFAS

Difficulty developing land inside vs. outside PFAs

When asked whether they believe it is more difficult to develop land inside or outside PFAs, respondents citing “inside” PFAs outnumbered those citing “outside” by almost four to one. A large percentage (29 percent) also indicated that designation inside or outside a PFA had no impact on the difficulty of development.

The responses also varied by type of respondent. Seven developers stated that development was more difficult inside PFAs, zero stated that it was more difficult outside PFAs, and four indicated that there was no difference in difficulty inside PFAs compared to outside. When asked to elaborate, several developers indicated that the difficulties arise not from differences in regulations between areas inside and outside PFAs, but in how they are applied. Citizen opposition, for example, can be more severe, because the higher density of development implies a larger number of constituencies that must be satisfied. Similarly, development itself is inherently more complex. The difficulty of assembling large parcels of land makes “staging” of development inherently more difficult, and in counties with annual growth caps, staging is the only way to complete large multi-unit development projects. Parking must often be built as structure parking below-grade, increasing construction costs. Environmental concerns such as soil contamination are also more pervasive, triggering more elaborate environmental review requirements. Utility systems often favor suburban development. One local utility, for instance, requires a ten-foot public easement for electric lines. Such a requirement is more conducive to suburban development, where land acquisition costs and desired densities are both lower. When the requirement is applied to urban communities, it inhibits redevelopment efforts.

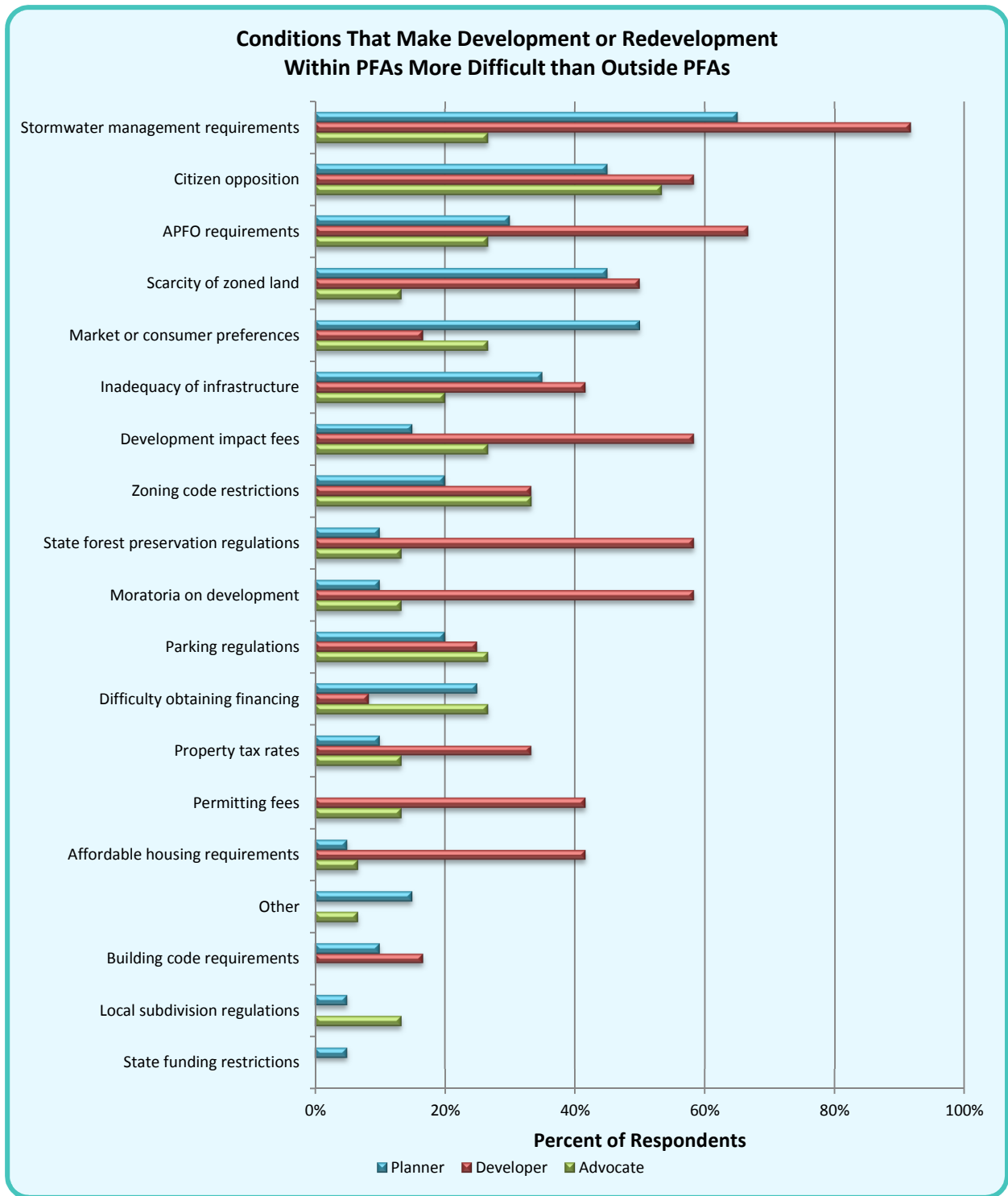


Planners were also more likely to agree that development is more difficult inside PFAs than outside PFAs. Seven planners indicated that development was more difficult inside; four indicated that it was more difficult outside; and six indicated that there was no difference in development difficulty inside versus outside PFAs. When asked to elaborate, planners responses varied by type of jurisdiction. In more rural jurisdictions, the presence of agricultural preservation policies and low density zoning in areas outside PFAs make higher density development difficult or impossible. On the other hand, developers often face higher infrastructure development costs outside PFAs, due to the lack of existing on-site infrastructure. Meeting adequate public facilities requirements can also be easier in rural areas where roads, schools, and other facilities are less burdened. Inside PFAs, in places where infrastructure exists and capacity is available, development can occur without the added cost of facility upgrades or extensions. Planners also mentioned citizen opposition as a barrier to development within PFAs, with one planner noting that the creation of the State's smart growth legislation did nothing to alter local attitudes towards density and growth. One planner indicated that policies were altered to facilitate growth within PFAs. In this county, impact fees have been lowered inside areas designated for growth. Although total impact mitigation costs can be higher in these areas, a portion of the total fees paid goes towards transit and is rebated to developers who build near transit. In another portion of the county, development impact fees are rebated if the development is also located near 10 basic services.

Advocates were the most likely group to indicate that development was more difficult inside PFAs. Nine advocates indicated that development was more difficult inside; two indicated that it was more difficult outside; and two indicated that there was no difference in development difficulty inside versus outside PFAs. When asked to elaborate, several advocates pointed to the importance of political leadership and citizen support for high density development. Another advocate noted that while the State's policy directs infrastructure funding to PFAs, the reality is that there is little to no state funding available now for expanding wastewater treatment facilities or modernizing public water systems. One planner also made the same observation.

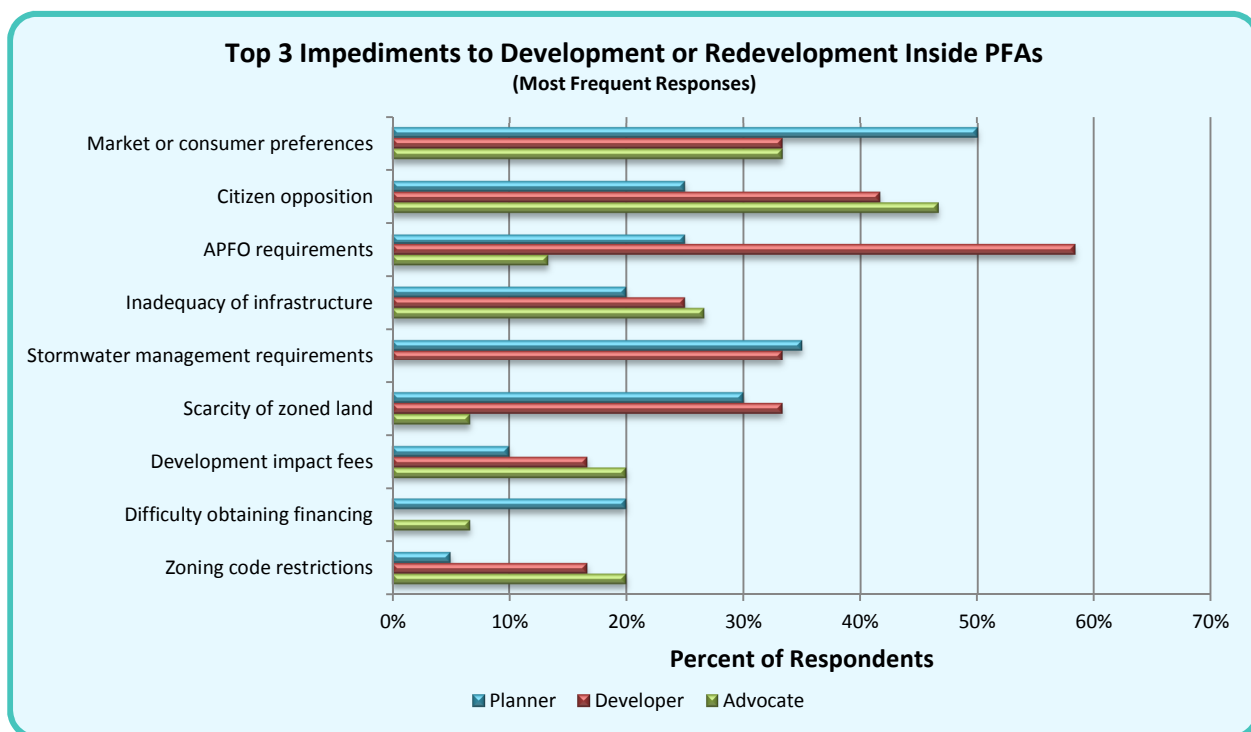
Conditions that make development or redevelopment within PFAs more difficult

Respondents were asked to identify from a list of conditions, which were impediments to development or redevelopment inside PFAs and which were among the top three impediments. The most frequently cited impediments include stormwater management regulations and citizen opposition. Respondents from all categories suggested that recent changes in the State's stormwater mitigation requirements make redevelopment within existing urban areas more difficult. One developer elaborated on this point, indicating that the most significant problem with existing stormwater management regulations is the requirement to perform stormwater management mitigation on a site-by-site basis, rather than regionally. Another developer and one planner pointed to recent changes in the State's definition of "redevelopment activity" which make stormwater mitigation more difficult for redevelopment projects. The new



redevelopment requirements specify that impervious area shall be reduced by 50 percent and/or environmental site design be implemented for 50 percent of the existing impervious area, a percentage that is much higher than under previous regulations. In some counties, this percentage is even higher if the county establishes standards that are more restrictive than the State's.

When asked to prioritize the impediments, the most frequently cited items included citizen opposition, APFOs, scarcity of zoned land, and lack of infrastructure. Groups prioritized impediments differently. Citizen opposition was the most frequently-cited top-ranked condition among advocates, while stormwater management regulations were the most frequently cited among developers and planners. Combined, these suggest that lengthy regulatory processes requiring substantial citizen review, which are also tied to local infrastructure capacity constraints through APFOs, or ad-hoc moratoria can impose significant constraints to development within PFAs. Respondents also identified quality-of-life considerations, particularly schools and crime, as influencing market demand within PFAs. Developers remarked that inconsistencies between current soft-market realities combined with stringent regulatory constraints limit the feasibility of development within many PFAs. Inappropriate requirements for ground-level retail square footage, parking, stormwater management, and environmental standards are some examples of such inconsistencies.



Projects delayed by APFO moratoria

When asked if they have ever had a project inside a PFA delayed due to a moratorium resulting from an adequate public facilities ordinance, eight developers indicated that their projects had been delayed due to APFO requirements, while four indicated that their projects had not been delayed. School and road capacity were the most frequently cited facilities causing the delay, with two developers citing water and sewer and no developers citing public safety. When asked to elaborate, most developers pointed out that APFOs do not necessarily always delay development, but they make it more expensive (you can buy your way out of an APF limitation), thereby altering the types of

development which are financially feasible. In the face of having to provide additional infrastructure to gaps in adequate public facilities, high-end housing or multi-family development tends to be favored over affordable housing.

Difficulty developing within PFAs by types of development

All three groups indicate that although the market for high-rise and mixed-use projects is strongest within PFAs, these development types are also the most difficult to develop. When asked to elaborate, citizen opposition, land availability, and infrastructure capacity were all frequently cited constraints facing multifamily and higher-density property developers. Several respondents pointed to a general lack of understanding among the public about mixed use developments and their impacts. One developer elaborated on this point, suggesting that those who generally support new mixed use developments, and who ultimately end up occupying such developments, rarely attend the public meetings. Instead, the meetings are attended by a vocal minority opposed to change of any sort.

Planning tools that determine whether a development or redevelopment will be approved

A parcel's status vis-à-vis the PFA made little difference, according to the three groups interviewed. The most important determinants of development approval are the parcel's zoning and the existence of adequate infrastructure. Several also point to the importance of local public support. The importance of the comprehensive plan varied by jurisdiction. In one county, where the master plan update was used to create a strategy to guide new development along a large transportation corridor, the plan became an important tool guiding local political decisions. The plan had the approval of the local citizenry, and as a result, developers relied on the plan to guide their own decisions, since projects that were consistent with the plan were met with greater public support. Differences in political culture among jurisdictions also influence the public perception of proposed projects, particularly those that substantially change the existing urban fabric.

POLICIES FOR IMPROVEMENT

Many astute observers of planning issues in Maryland think PFAs are not working well and think it is more difficult to develop inside than outside PFAs, especially for developers of high-density and mixed-use projects. While there are multiple reasons, a primary factor is that many perceive there to be inadequate infrastructure capacity inside PFAs, contrary to conventional wisdom. Limitations on infrastructure capacity are either due to constraints imposed by local APFOs or due to aging infrastructure requiring substantial upgrades. For this reason, many think the State should limit the length of APFO restrictions and create an infrastructure bank or other mechanism to finance urban infrastructure within PFAs. Many also indicate that in the current economic climate, limited state resources for infrastructure financing reduce the impact of the PFAs on incentivizing growth within Maryland's urbanized areas. It was often

suggested that reducing impact fees and lowering level of service requirements for certain types of infrastructure inside PFAs could help facilitate growth in these areas. Many respondents also pointed to the importance of expediting state agency review processes and coordinating with local regulatory processes, frequently citing state stormwater management requirements and other environmental protection requirements as among the most important impediments to development within PFAs.

Through tools like PlanMaryland and proposed septic regulations, state policy can help to restrict growth in rural areas outside PFAs across the State. At the same time, state and local governments need to ensure there is capacity to grow inside PFAs. Toward these ends, HSG offers the following recommendations:

- Require that PFAs be consistent with growth areas, incorporated into comprehensive plans and be reviewed as part of the comprehensive plan review process every ten years. Currently, PFAs are not required in comprehensive plans, which are reviewed every six years.
- Require that PFAs contain sufficient development capacity for 20 years of residential, institutional, commercial, and industrial growth. Currently, PFA capacity criteria include only residential development.
- Provide local governments with greater flexibility in constructing PFAs if they place greater restrictions on development outside PFAs. This recognizes that “one size does not fit all” when it comes to PFAs across the State and would provide local governments some flexibility on the size of PFAs if they restrict development outside PFAs.
- Require local governments to include a housing element in their comprehensive plans that permits, but does not require, high density and mixed use development.
- Establish minimum zoned density requirements that vary for urban, suburban, and rural PFA communities.
- Enable local governments to reduce regulatory restrictions (e.g., road service standards, stormwater management and forest preservation requirements) inside PFAs, especially in transit station areas.
- Limit development moratoria from adequate public facilities ordinances to four years. If moratoria cannot be lifted in four years, require local governments to increase development capacity elsewhere.
- Target state infrastructure spending in areas within PFAs under adequate public facilities ordinances moratoria.
- The State should work with local governments and other development stakeholders to further identify barriers to growth specific to the PFAs within each jurisdiction. Collectively they should work to identify options for overcoming these barriers.
- The State should work with local governments to periodically conduct a statewide infrastructure needs assessment as well as a review of growth related capital funding approved and planned by the state and local governments.

CONCLUSION

The 1992 Growth Act established a process by which development would be planned, regulated, and financed through the cooperation of state and local government agencies. Specifically, the Act required local governments to prepare comprehensive land use plans and have them reviewed by the Maryland Department of Planning. After such review, spending by state agencies would then be consistent with those comprehensive plans. In the 1997 Smart Growth Act, the State took a different direction. The Act required local governments to establish priority funding areas and rural legacy areas that would serve as targets for state spending whether or not they were consistent with local comprehensive plans. What's more, PFAs and RLAs were intended to be smaller than growth and conservation areas in comprehensive plans as a means of further concentrating both development and conservation. As a result, to the extent that PFAs are consistent with growth areas in comprehensive plans, they are completely redundant. And to the extent that PFAs are not consistent with local plans, there is ample evidence and a growing consensus that they have little influence.

Although they have limitations PFAs are not without merit. For nearly 15 years, they have served to guide state spending and as a useful benchmark for monitoring trends in urban growth. They are also featured prominently in PlanMaryland and the report of the Task Force on Sustainable Growth and Wastewater Disposal. But if they are to serve as an effective frame for PlanMaryland and for new septic regulations then more efforts must be directed towards ensuring PFAs are well-suited for addressing a wide variety of local conditions, are consistent with local growth areas, and policies must be adopted that make it easier to develop inside than outside their boundaries.

APPENDIX A: CASE STUDIES

Case Study 1

One county planner pointed to a paradox of PFA designation. This particular county's APFO places limitations on development in areas where infrastructure capacity is inadequate, with water and sewer capacity being the most significant constraint. In the presence of such local infrastructure capacity constraints, there is a reluctance to expand the size of areas qualifying for PFA designation, because infrastructure systems would be inadequate to serve these areas. Although the PFA legislation is designed to direct state infrastructure funds to more densely-developed areas for the purpose of expanding infrastructure capacity in those areas, if the funds provided by the State do not address local infrastructure inadequacies, the PFA law has the effect of shrinking the size of areas which may qualify for PFA designation. As a result, the PFAs in this county tend to be smaller than the growth areas identified in the comprehensive plan. Since PFA funding streams are weighted heavily towards transportation dollars,¹⁵ PFA designation has little impact on this county's ability to accommodate growth within PFAs, where water and sewer capacity is inadequate and transportation system capacity is adequate.

Case Study 2

One county planner pointed to an inconsistency in how PFAs are designated vis-à-vis the local comprehensive planning and zoning process. In this county, comprehensive plan updates occur first, followed by the redesignation of PFAs. Since the State ties PFA designation to zoning categories rather than comprehensive plan designations, the county identifies several areas which should qualify for PFA designation but which are not identified as such by the State, because the areas have yet to be rezoned to be consistent with new plan designations. This county does not immediately rezone land to be consistent with new plan designations, but rather, encourages the establishment of floating zoning categories so that infrastructure capacity needs and land use compatibility issues can be addressed on a project-by-project basis. Since none of these areas are pre-zoned for new development, however, the areas do not qualify for PFA designation until after development has already occurred. As a result, the county never receives the benefits associated with PFA-directed funds for new infrastructure.

Case Study 3

One county planner (along with several others) observed that although the PFA legislation was adopted in 1997, there are several developable lots outside the PFA on pre-platted subdivisions which were still seeing new development after 1997. As a result of such "legacy" zoning and subdivision approvals, a considerable amount of development continued to come online after the adoption of the 1997 legislation. On the other hand, this same county had also adopted a town center concept plan prior to the adoption of the 1997 PFA law which encourages development within town centers. These town centers also happen to be coincident with PFAs. Inside these town centers, a variety of measures have been taken to encourage new growth, including relaxed environmental regulations.

This same county planner provides an interesting example of how PFAs are considered in local planning processes. Since the adoption of the 1997 PFA legislation, the Maryland Department of Planning has placed increasing emphasis on encouraging new schools to be constructed within PFAs. In one instance, a county school located outside the county's PFAs sought to expand and was required to seek a waiver from the state Board of Education in order to continue with expansion plans.

Case Study 4

At least two counties have adopted a housing allocation scheme that functions as a growth cap, with slight variations. One county has adopted several different planning areas and structure type priorities, and within each of those areas, developers are allocated a maximum number of housing units per year. This provides certainty to public service providers, who use those maximum allocations to plan for annual service provision. This policy likely has the effect of discouraging large-scale development within PFAs, however, since developers must phase projects and reapply for new housing allocations each year, which creates uncertainty regarding the long-term feasibility of multi-year projects.

Case Study 5

One county encourages development within its growth areas, which also happen to be largely similar to PFAs, by reducing impact fees within urban areas. However, since infrastructure capacity in urban areas tends to be more limited, the total mitigation costs often still tend to be higher than in areas outside of PFAs. To address this issue, this county recently adopted a provision which stipulated that 50 percent of such mitigation fees would be applied to transit, 25 percent applied to road impact mitigation, and the remaining 25 percent would be returned to the developer to provide an incentive to develop within designated growth areas near transit. In one mixed use zone, developers also receive additional density credits if the location of their project is within proximity of ten basic services.

Case Study 6

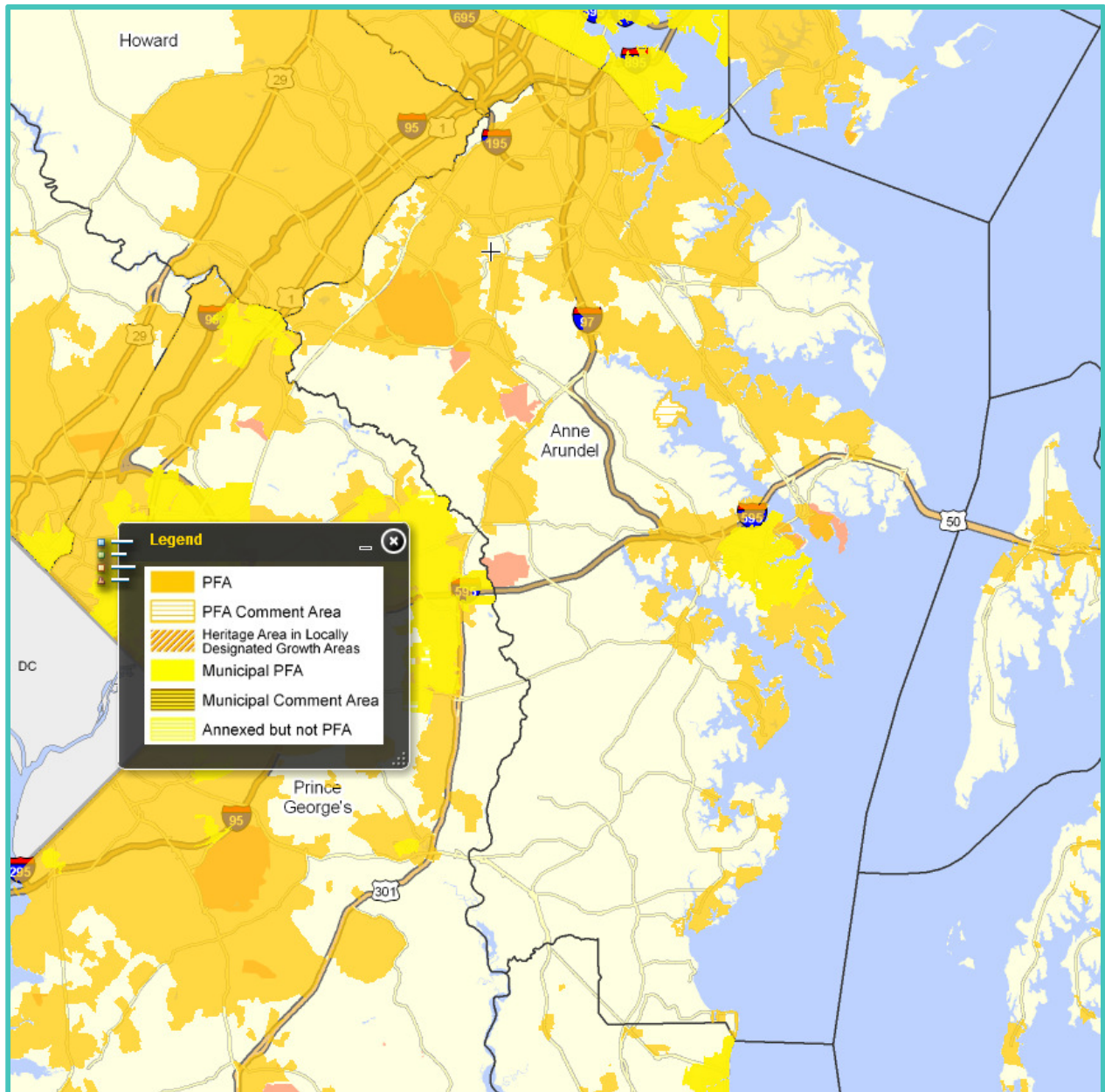
One county planner noted that Maryland's state planning law makes it very difficult for developers to quickly respond to changes in market demand. In Maryland, "piecemeal" rezonings and petitions for zoning map amendments are governed by the "change or mistake rule." This rule stipulates that any such rezonings that are not part of a comprehensive local government-initiated rezoning must demonstrate that there has either been a change in the neighborhood since the last zoning ordinance was adopted or a mistake in the original zoning. According to this county planner, demonstrating evidence of such changes or mistakes typically requires a two and a half year approval process. As an example, one developable six acre parcel within the PFA is currently zoned as a "hotel / motel" designation which does not allow for retail uses. According to the planner, this zoning category is out of sync with more recent mixed use development trends.

Case Study 7

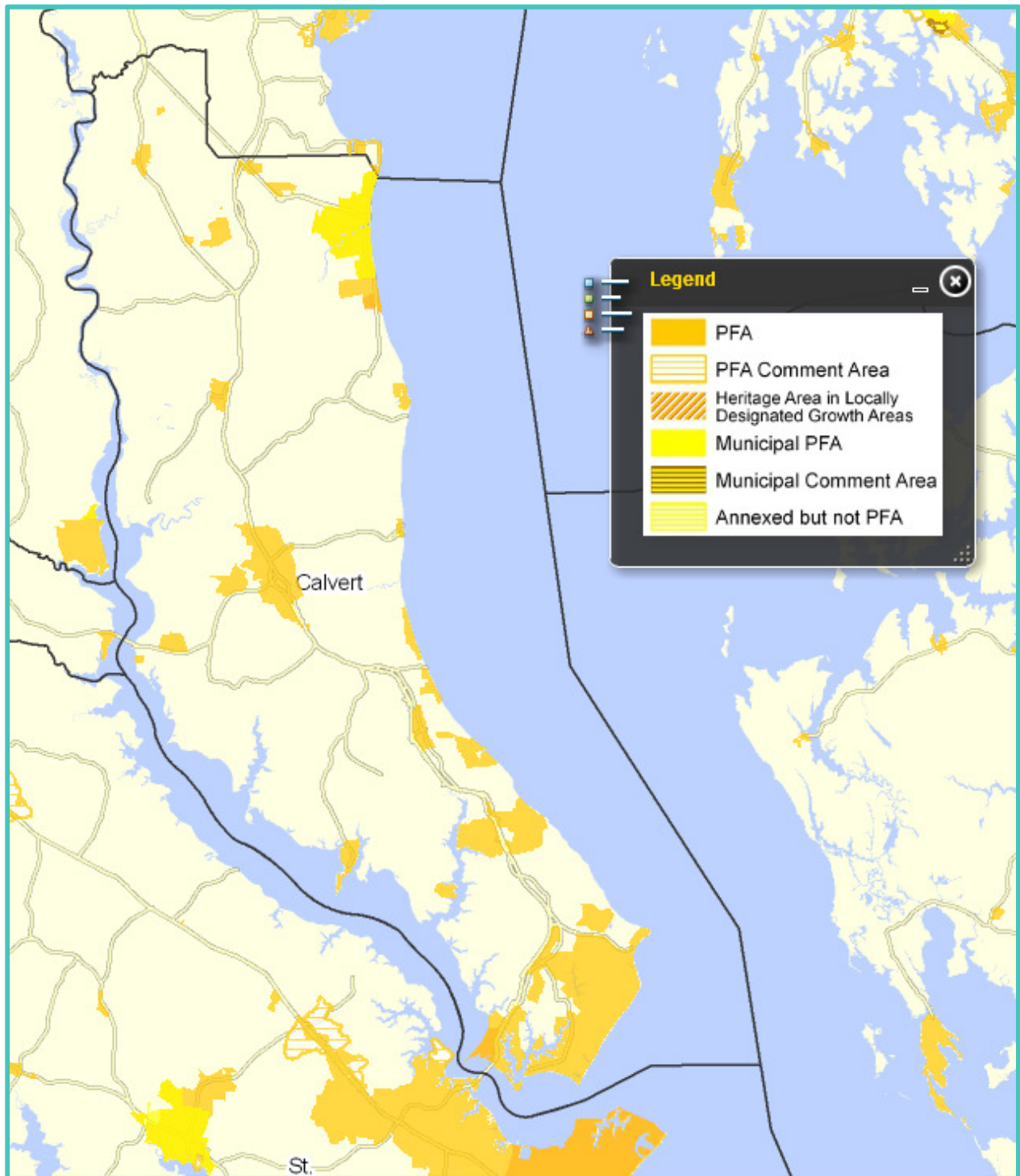
One planner working within a more urbanized region of the State pointed to antiquated overlay plans adopted during the urban renewal era as being major impediments to redevelopment within the city. Over 75 urban renewal plans exist within the area, and each carries its own unique design, land use, and parking requirements. The jurisdiction is currently working to update these plans to be consistent with more recently adopted zoning and comprehensive plan designations.

APPENDIX B: PFA MAPS¹⁶

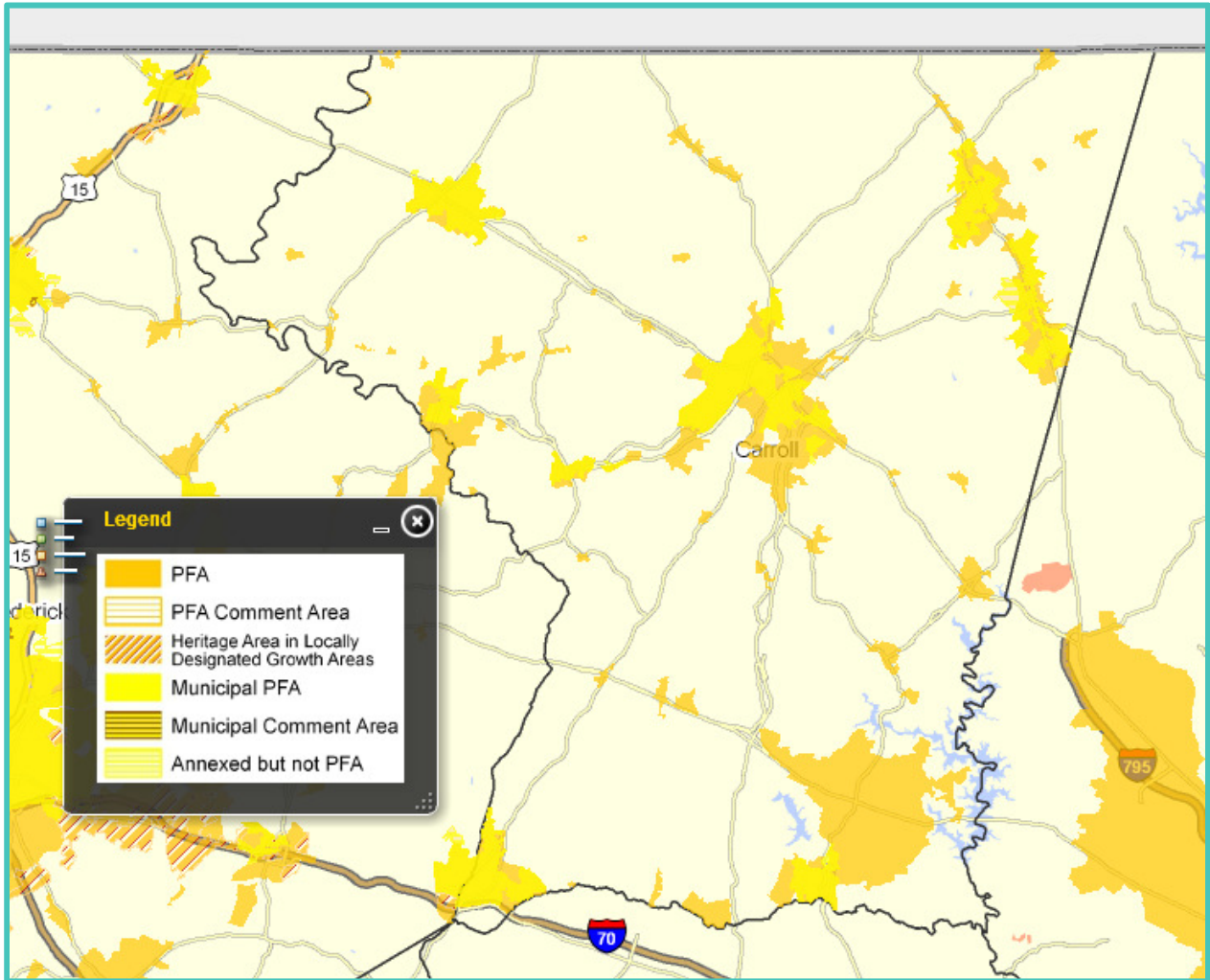
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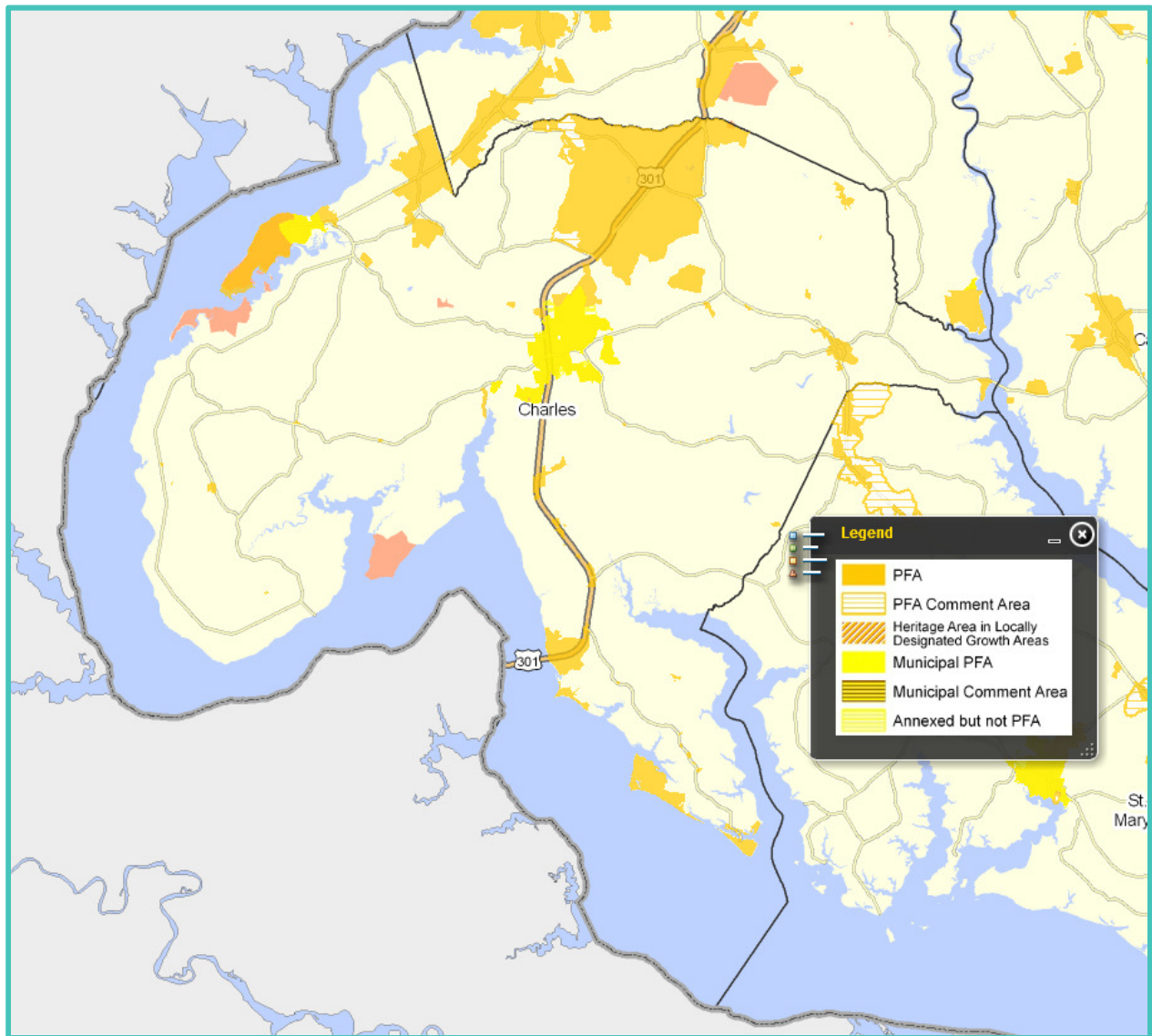
Calvert County



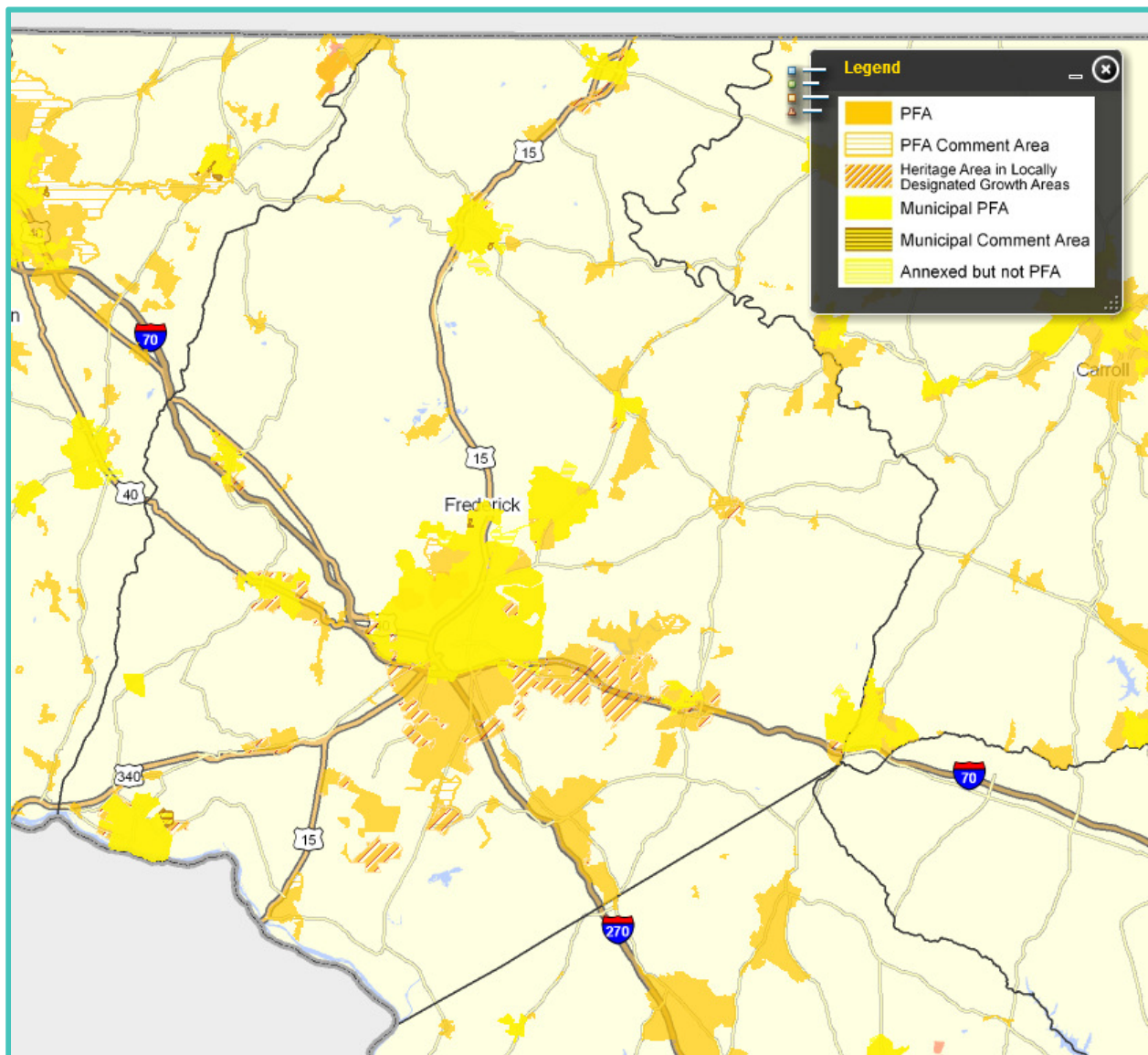
Carroll County



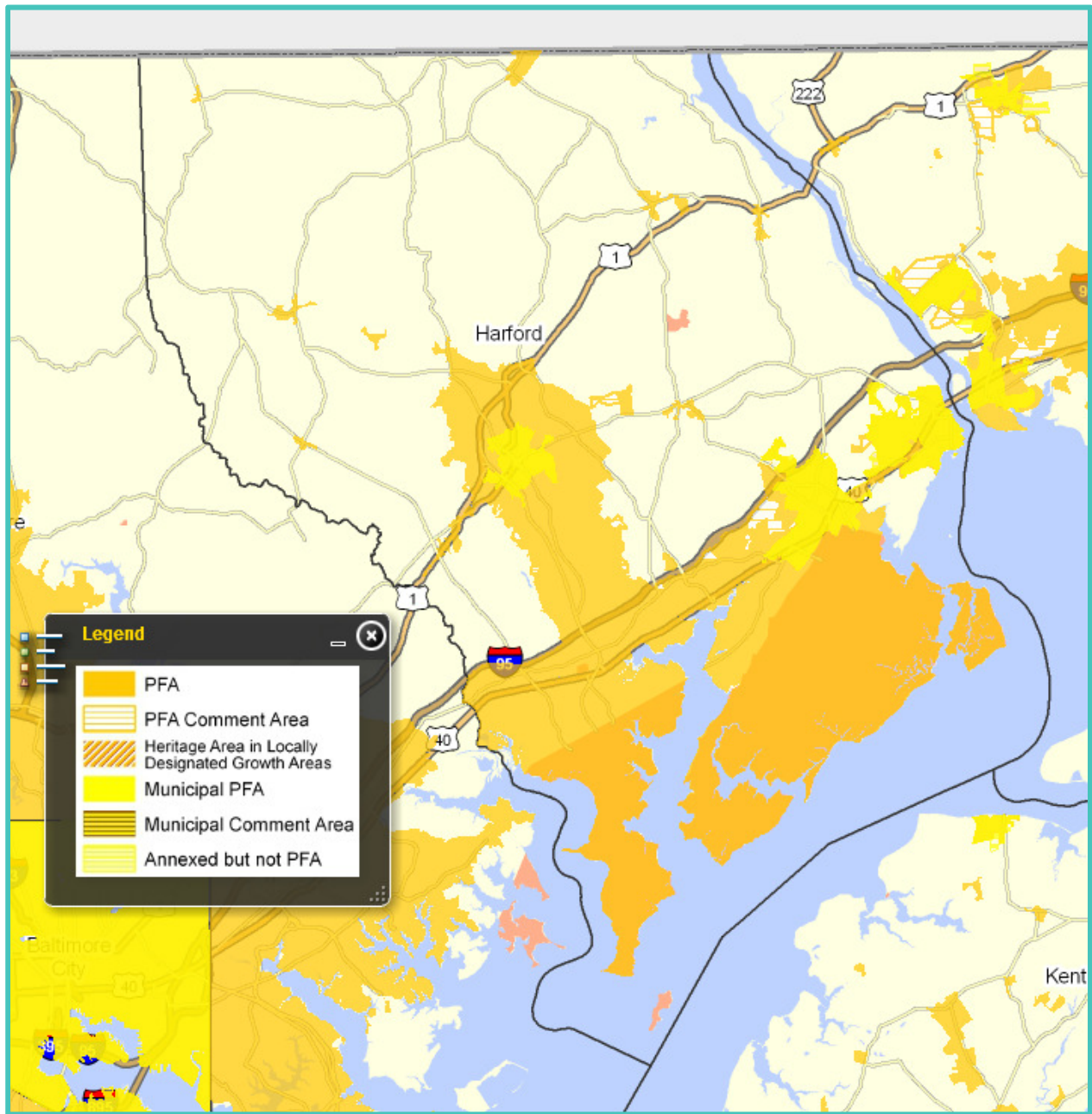
Charles County



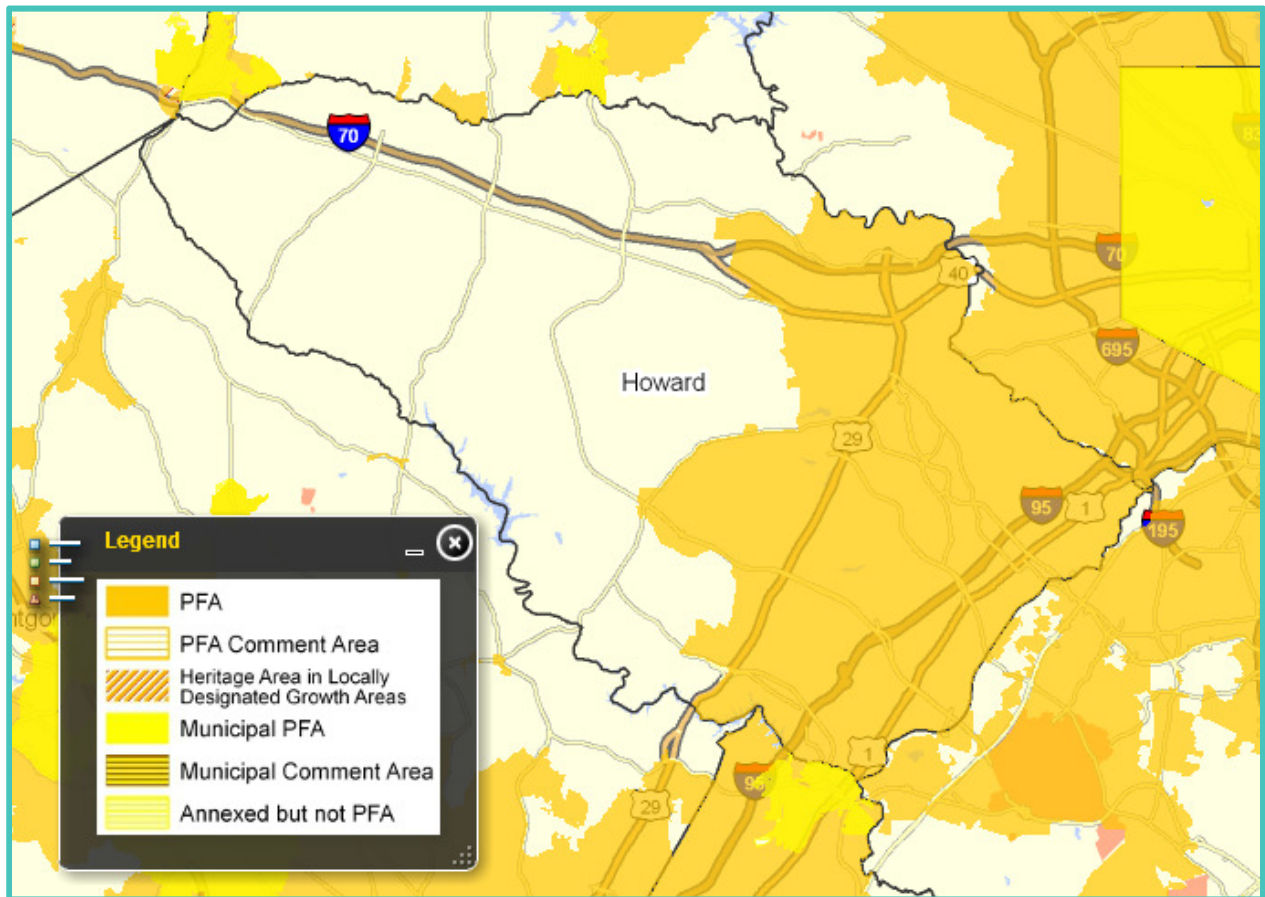
Frederick County



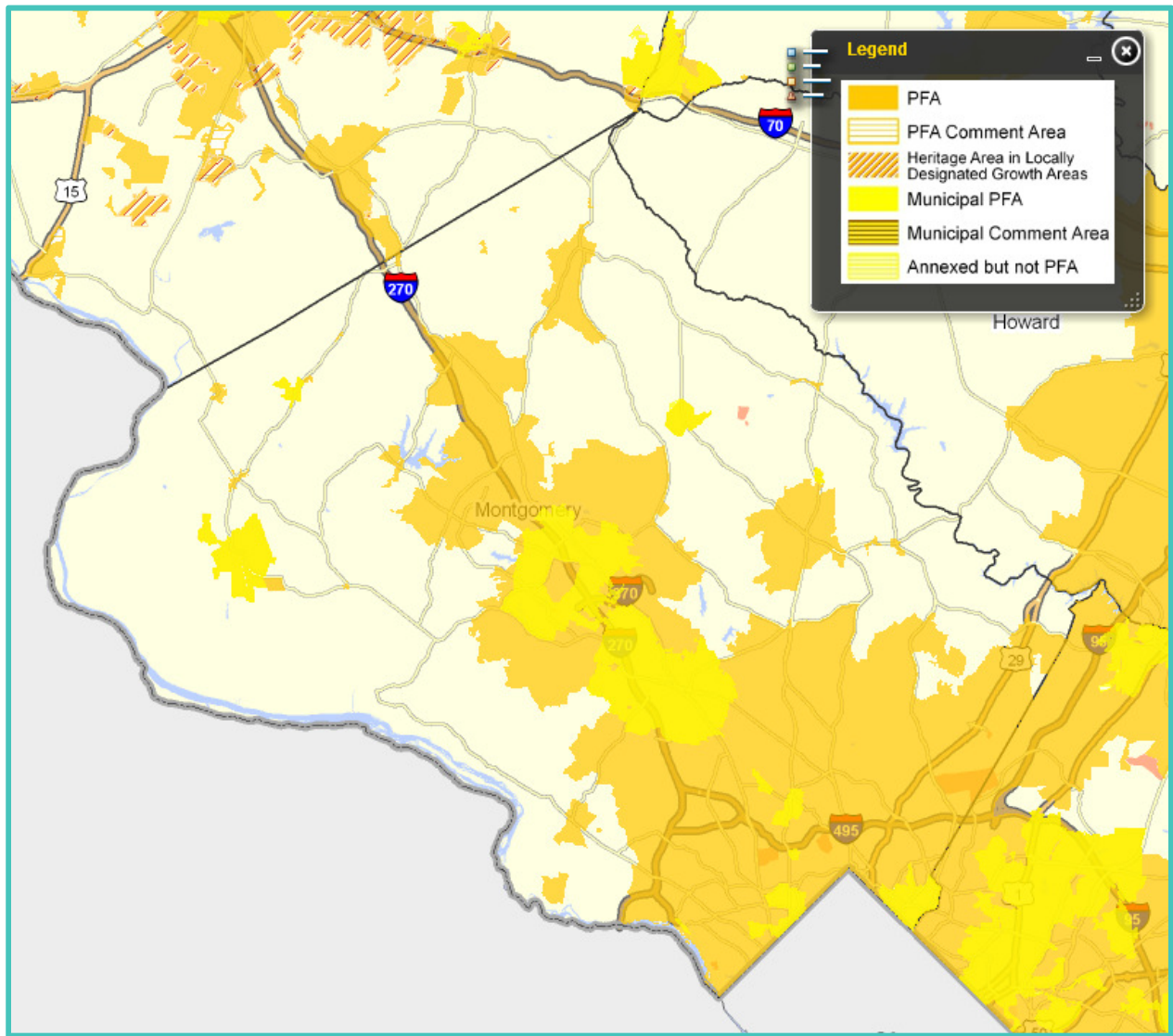
Harford County



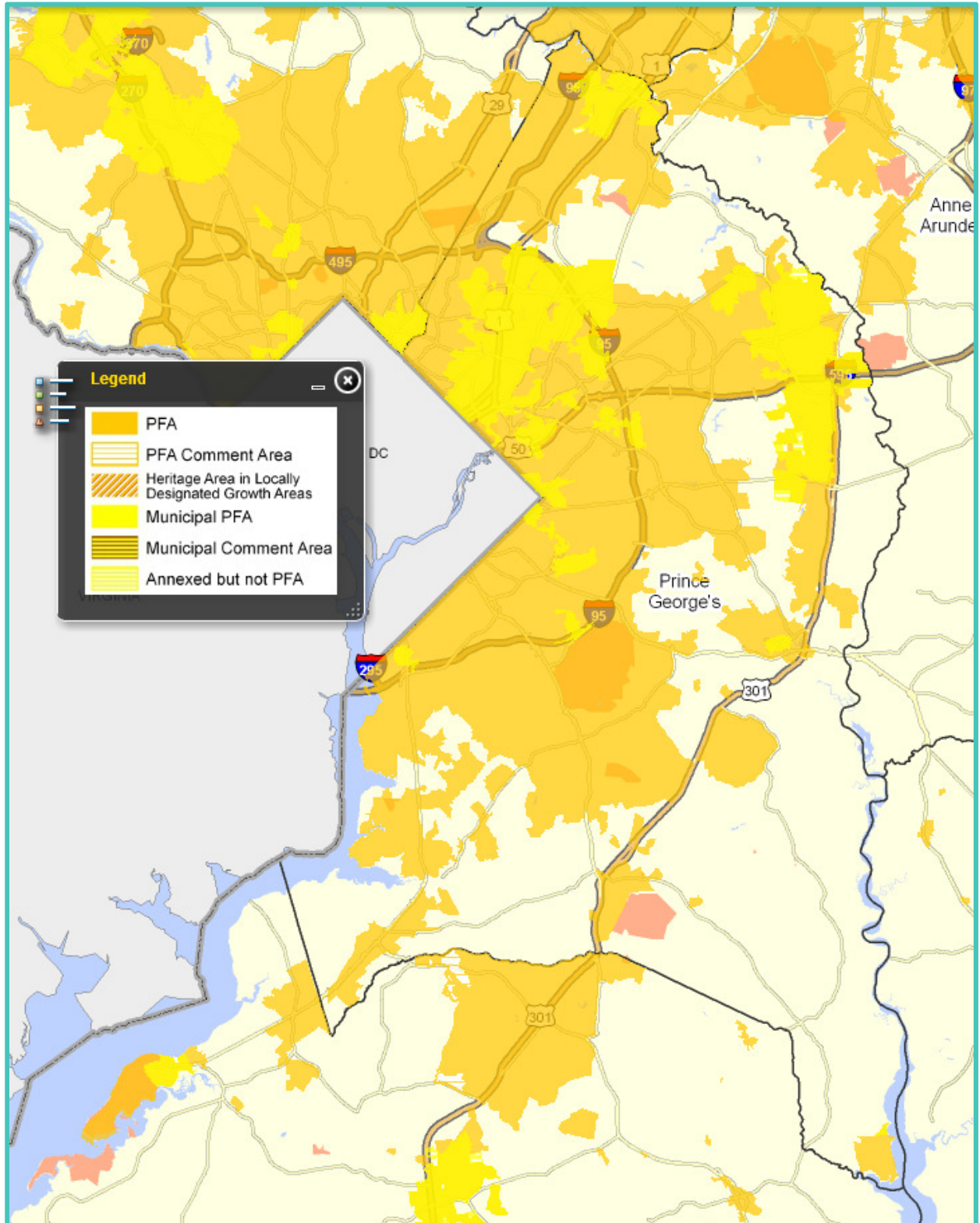
Howard County



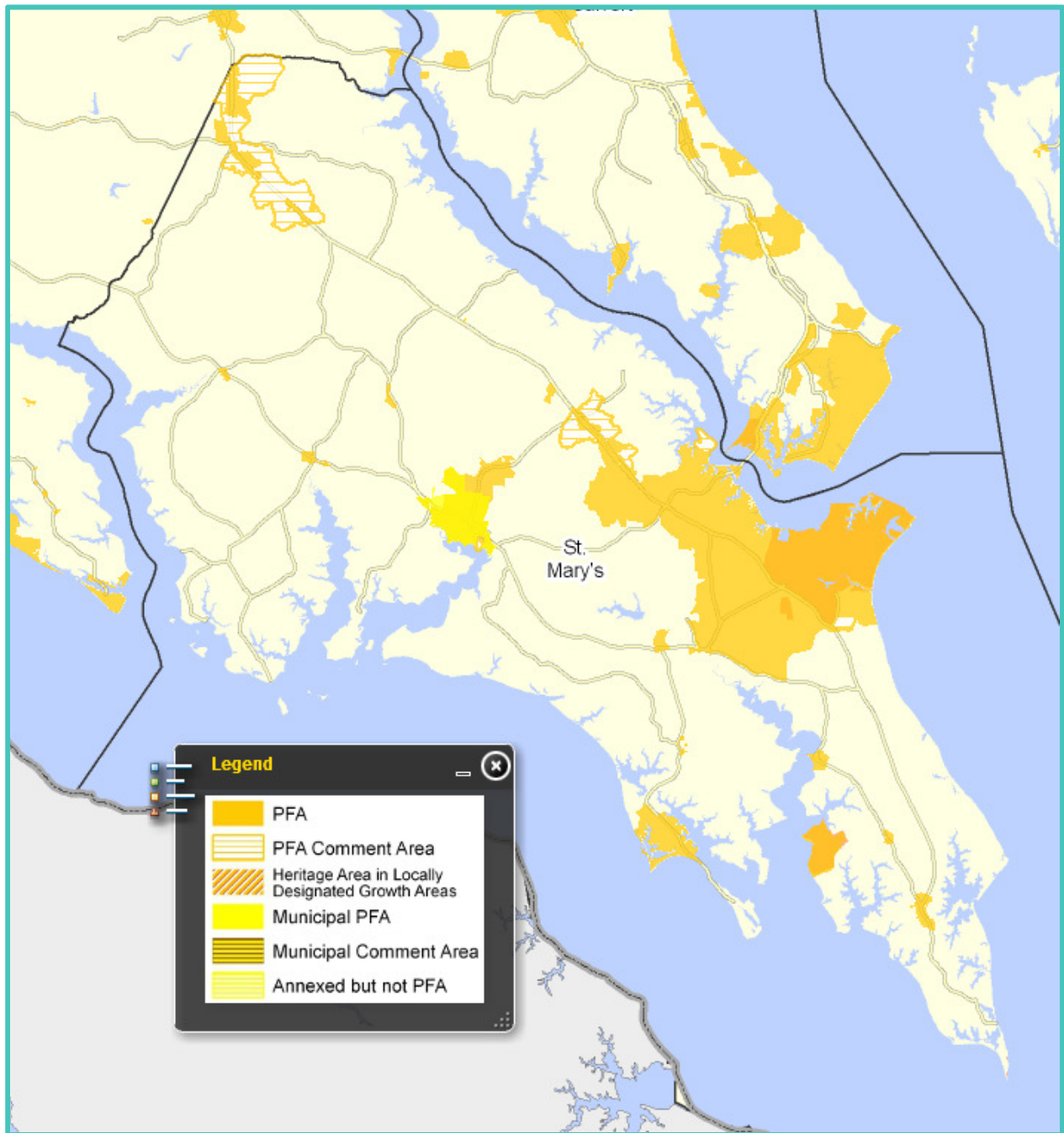
Montgomery County



Prince George's County



St. Mary's County



APPENDIX C: QUANTITATIVE SUMMARY OF SELECT SURVEY RESPONSES

Planners (P): Notation of which county the planner represents (municipalities included in county counts).

Developers (D): In which counties, or in what parts of the state, has most of your development or redevelopment activity occurred during the last 10 years?

Advocates (A): In which counties, or in which parts of the state, do you focus most of your work?

	P	D	A	Total	
Montgomery	3	4	5	12	
Baltimore	1	5	4	10	
Prince George's	2	2	6	10	
Anne Arundel	2	4	3	9	
Howard	1	5	1	7	
Baltimore City	1	3	2	6	
Carroll	2	2	1	5	
Frederick	2	1	2	5	
Harford	3	2	0	5	
Charles	1	1	1	3	
St. Mary's	1	0	1	2	
Statewide	0	0	2	2	
Calvert	1	0	0	1	
Other	0	0	0	0	

How familiar are you with PFAs?

	P	D	A	Total	
Very familiar	11	5	5	21	
Familiar	9	3	5	17	
Somewhat familiar	0	2	3	5	
Not familiar	0	2	1	3	

To what extent have PFAs been an effective urban growth management tool?

	P	D	A	Total	
Not at all effective	4	6	4	14	
Somewhat effective	8	4	9	21	
Effective	5	1	1	7	
Very effective	3	0	0	3	
No response	0	1	1	2	

Do you believe it is more difficult to develop land inside or outside PFAs?				
	P	D	A	Total
Inside	7	7	9	23
No difference/ depends	6	4	2	12
Outside	4	0	2	6
No response	3	1	2	6

Which of the following conditions make development or redevelopment within PFAs more difficult, as compared to outside PFAs?				
	P	D	A	Total
Stormwater management requirements	13	11	4	28
Citizen opposition	9	7	8	24
APFO requirements	6	8	4	18
Scarcity of zoned land	9	6	2	17
Market or consumer preferences	10	2	4	16
Inadequacy of infrastructure	7	5	3	15
Development impact fees	3	7	4	14
Zoning code restrictions	4	4	5	13
Parking regulations	4	3	4	11
Moratoria on development	2	7	2	11
State forest preservation regulations	2	7	2	11
Difficulty obtaining financing	5	1	4	10
Property tax rates	2	4	2	8
Affordable housing requirements	1	5	1	7
Permitting fees	0	5	2	7
Building code requirements	2	2	0	4
Other	3	0	1	4
Local subdivision regulations	1	0	2	3
State funding restrictions	1	0	0	1

	P			D			A			Total		
	#1	#2	#3	#1	#2	#3	#1	#2	#3	#1	#2	#3
Market or consumer preferences	6	4	0	2	1	1	3	1	1	11	5	2
Citizen opposition	1	1	3	4	1	0	4	2	1	9	3	4
APFO requirements	1	4	0	3	2	2	0	1	1	4	5	3
Inadequacy of infrastructure	2	0	2	1	1	1	1	1	2	4	1	5
Scarcity of zoned land	5	0	1	1	2	1	0	0	1	6	0	3
Stormwater management requirements	2	4	1	1	2	1	0	0	0	3	4	2
Development impact fees	0	0	2	0	0	2	0	2	1	0	2	5
Difficulty obtaining financing	1	1	2	0	0	0	0	0	1	1	1	3
Zoning code restrictions	0	0	1	0	2	0	3	0	0	3	0	1
Property tax rates	2	1	0	0	0	0	0	0	0	2	1	0
Parking regulations	0	1	0	0	0	0	0	1	0	0	2	0
State forest preservation regulations	0	0	1	0	0	0	0	1	0	0	1	1
Other	0	0	1	0	0	1	0	0	0	0	0	2
Affordable housing requirements	0	0	0	0	0	1	0	0	0	0	0	1
Local subdivision regulations	0	0	0	0	1	0	0	0	1	0	0	1
Permitting fees	0	0	0	0	0	0	0	1	0	0	1	0
State funding restrictions	0	1	0	0	0	0	0	0	0	0	1	0
Building code requirements	0	1	0	0	0	0	0	0	0	0	1	0
Moratoria on development	0	0	0	0	0	0	0	0	0	0	0	0











Have you ever had a project inside a PFA delayed due to a moratorium resulting from an adequate public facilities ordinance?

	P	D	A	Total
Yes	N/A	8	N/A	8
No	N/A	4	N/A	4






If yes, what public facility caused the delay?

	P	D	A	Total
School capacity	N/A	5	N/A	5
Road level of service	N/A	5	N/A	5
Public safety	N/A	0	N/A	0
Other	N/A	2	N/A	2







Which of the following types of development are most difficult to develop inside PFAs?

	P	D	A	Total	
Mixed use	10	4	5	19	
High rise apartments	8	5	4	17	
Single family housing	5	2	1	8	
No difference	4	3	1	8	
Garden apartments	3	3	1	7	
Townhouses	4	1	1	6	
Industrial	2	1	3	6	
Office	1	1	1	3	
Flex warehouse	0	1	1	2	
Commercial retail	1	0	1	2	

In which jurisdictions in Maryland is it most difficult to get approvals for development in PFAs?

	P	D	A	Total	
Anne Arundel	N/A	5	N/A	5	
Montgomery	N/A	4	N/A	4	
Prince George's	N/A	3	N/A	3	
Baltimore	N/A	2	N/A	2	
Frederick	N/A	2	N/A	2	
Calvert	N/A	0	N/A	0	
Carroll	N/A	0	N/A	0	
Charles	N/A	0	N/A	0	
Harford	N/A	0	N/A	0	
Howard	N/A	0	N/A	0	
St. Mary's	N/A	0	N/A	0	
City of Baltimore	N/A	0	N/A	0	

Which of the following planning tools is the most important determinant of whether or not a development or redevelopment will be approved on a given parcel of land?

	P	D	A	Total	
Parcel's zoning	15	6	7	28	
Adequate infrastructure	10	7	7	24	
Community support	6	4	7	17	
Parcel's comp plan designation	6	5	2	13	
Parcel's location relative to PFAs	1	0	0	1	
Parcel's location relative to RLAs	1	0	0	1	

What changes in state policy would make PFAs serve as more effective policy instruments?				
	P	D	A	Total
Expedited state agency review	12	8	6	26
Create a state infrastructure bank	12	4	8	24
Lower levels service requirements in PFAs	5	7	4	16
Reduce impact fees in PFAs	6	5	4	15
Require local governments to provide adequate infrastructure inside PFAs	4	5	5	14
Incorporate PFAs in comprehensive plans	6	2	4	12
Require PFAs and growth areas to be the same	7	2	3	12
Place time limits on APFO restrictions	2	7	2	11
Down-zone outside PFAs	7	1	2	10
Limit ability to adopt APFOs inside PFAs	4	4	2	10
Allow more flexibility in drawing PFA boundaries	4	3	1	8
Other	3	0	5	8
Require PFA development decisions within limited time period	1	4	2	7
Require MDP to review PFAs on a regular basis	4	0	2	6
Require each county to have a 20-year supply of zoned land at all times	1	2	2	5

¹ Knaap, Gerrit-Jan, and John W. Frece (2007). "Smart Growth in Maryland: Looking Forward and Looking Back." *Idaho Law Review* 43, 445-473.

² Sartori, Jason, Terry Moore, and Gerrit Knaap. *Indicators of Smart Growth in Maryland*. National Center for Smart Growth Research and Education, January 2011.

³ Lewis, Rebecca, Gerrit-Jan Knaap, and Jungyul Sohn (2009). "Managing Growth With Priority Funding Areas: A Good Idea Whose Time Has Yet to Come." *Journal of the American Planning Association* 75:4, 457-478.

⁴ Planning Services Division. *Priority Funding Areas, How to Revise and Update*. Maryland Department of Planning, August 2009.

⁵ Sartori, Jason, Terry Moore, and Gerrit Knaap. *Indicators of Smart Growth in Maryland*. National Center for Smart Growth Research and Education, January 2011.

⁶ Lewis, et al., op. cit.

⁷ Sherling, Mike, Brad Heavner, Tony Dutzik, and Elizabeth Ridlington. *Not so Smart Growth: Land Consumption in Maryland After a Decade of "Smart Growth"*. Environment Maryland Research & Policy Center, March 2009.

⁸ Lewis, et al., op. cit.

⁹ For a review of the additional smart growth tools in Maryland, see Knaap & Frece, 2007 and Frece, 2008.

¹⁰ Specifically, counties may include: (a) areas inside locally designated growth areas zoned for industrial use by January 1, 1997, or served by public sewer; (b) employment areas inside locally designated growth areas served by or planned for water and sewer; (c) a community existing prior to 1997 that is located within a locally-designated growth area, served by a public/community sewer or water system, and has an allowed, average residential density of ≥ 2.0 units per net acre; (d) an area outside the developed portion of an existing community, if the area has an allowed, average build-out density of ≥ 3.5 units per net acre; (e) areas beyond the periphery of the developed portion of existing development that is scheduled for public water and sewer service, and have a permitted residential density of ≥ 3.5 units per net acre, and (f) rural villages included in the comprehensive plan before July 1, 1998. Rural villages are "any rural village, village center, or other unincorporated area that is primarily residential, including an area with historic qualities, that is located in an otherwise rural or agricultural area and for which new growth, if any, would

derive primarily from in-fill development or limited peripheral expansion.” (Maryland State Code Annotated, State Finance and Procurement Article §§ 5-7B-01).

¹¹ In practice, state agencies do not provide funding for “growth related” projects in “comment areas.”

¹² The Housing Strategies Group was unable to obtain more recent PFA modification data for this report.

¹³ State spending on schools was not included in the original PFA law. State spending on schools in PFAs is encouraged but not required in state administrative rules.

¹⁴ Knaap, Gerrit-Jan, and Rebecca Lewis. *State Agency Spending Under Maryland's Smart Growth Areas Act: Who's Tracking, Who's Spending, How Much, and Where?* National Center for Smart Growth Research and Education, September 2007.

¹⁵ Knaap and Lewis, op. cit.

¹⁶ The source of all maps in the appendix is the Maryland Department of Planning, <http://mdpgis.mdp.state.md.us/pfa/>.