



UNIVERSITY OF
MARYLAND

*National Center for Smart Growth
Research and Education*

College Park, Maryland 20742
301.405. 6788 TEL 301.314.5639 FAX
<http://www.smartgrowth.umd.edu>

FOR IMMEDIATE RELEASE

**Contact: John W. Frece
(301) 405-6799, jfrece@umd.edu**

**“Inappropriate Use, Inconsistent Standards
and Unintended Consequences”**

***New Study Identifies Implementation Problems with
Adequate Public Facilities Ordinances in Maryland***

College Park, Md. (April 27, 2006) -- Adequate Public Facilities Ordinances in Maryland are being applied in ways that often deflect development away from the very areas designated for growth, contrary to both the state’s Smart Growth land use policy and the underlying intent of the ordinances, according to a new report by the National Center for Smart Growth Research and Education.

The study, which examined the implementation and effects of APFOs in 12 Maryland counties and the relationship between APFOs and Maryland’s Smart Growth policy, concluded that APFOs sometimes have been inappropriately used, contain school capacity standards and regulations that vary greatly across jurisdictions, and often result in unintended consequences.

“In the abstract, most everyone agrees that growth should be channeled into existing urban areas so as to preserve natural resources and open space,” said Dr. Gerrit Knaap, the research center’s executive director and a professor in Urban Studies and Planning. “APFOs as they are used in Maryland appear to prevent that from happening. Policymakers want to believe that APFOs simply delay development until adequate infrastructure is in place; in reality, the infrastructure is often never provided and growth is deflected to less desirable locations.”

The analysis of the effects of APFOs on housing over a three-year period in three specific counties, Harford, Howard, and Montgomery, concluded that APFOs were responsible for deflecting as much as 10 percent of the new home development that otherwise would have been built within the designated growth areas ("Priority Funding Areas) in those counties. The effect of this shift is that the amount of housing available in those counties is reduced, housing prices are inflated, and the growth simply moves elsewhere, often to rural areas never intended for growth, to neighboring counties, or even to adjacent states. In short, APFOs appear to be fueling the same pattern of development the state's Smart Growth policy is intended to curtail.

"By putting areas under moratoria that are within PFAs, counties are clearly undoing the state's Smart Growth goals," said Antonio Bento, an assistant professor in the School of Public Policy, research professor at the National Center for Smart Growth, and one of the study's co-authors.

The study was commissioned by two regional home builder organizations, the Baltimore area Home Builders Association of Maryland and the Washington area's Maryland National Capital Building Industry Association.

Thirteen counties and 12 incorporated municipalities in Maryland have enacted ordinances designed to assure that infrastructure necessary to support proposed new development is built concurrently with, or prior to, that new development. These Adequate Public Facilities Ordinances, or APFOs as they are commonly called, are designed to assure that public schools, roads, sewers, water for fire fighting, police and rescue response times and/or other infrastructure or services are "adequate" to support proposed new development. (In other parts of the country, APFOs are sometimes referred to as "concurrency requirements.")

APFOs are timing devices that can be a useful tool for managing urban growth. When properly used, they can help ensure that needed facilities and services are available for new development and can signal to planners and elected officials what types of infrastructure, in which particular growth areas, are in need of additional capital improvement spending.

Researchers, however, found that public facility standards used to implement APFOs in Maryland vary from county-to-county as to which facilities or services are covered and what constitutes the standard of “adequacy.” These standards change over time as local elected officials respond to the concerns of constituents or other stakeholders. In addition, APFOs in Maryland are often poorly linked to capital improvement plans, and moratoria can last for indefinite periods of time thus violating sound planning principles.

“In a small number of counties APFOs are used as intended,” stated Jim Cohen, one of the study’s co-authors. “But in many counties that employ APFOs, the ordinances have become *the* dominant planning tool rather than just one of many tools a county might use to manage its growth.”

APFO consistency with local comprehensive plans is possible only if adequate funding is allocated to provide necessary infrastructure in the plan’s designated areas. The National Center for Smart Growth study concluded that often is not the case. When roads, schools or other infrastructure are judged to be insufficient to meet the standards established within APFOs, the result is often a moratorium on building until the infrastructure is ready to come on line. Moreover, the research showed that building moratoria frequently overlapped with “Priority Funding Areas,” the areas specifically designated for growth under the Smart Growth program.

In addition to its findings, the study offered several recommendations to improve APFO implementation in Maryland, many of which were modeled after recommendations originally made in 1999 by the Maryland Economic Growth, Resource Protection and Planning Commission. Among them were the following:

- The General Assembly should consider expanding local governmental powers to permit the establishment of Special Tax Districts or Tax Increment Financing districts to raise funds for needed facilities; and permit local governments to establish other mechanisms, such as infrastructure funding “banking” programs, that accumulate developer contributions to be used to fund needed improvements.
- The General Assembly should also consider amending the state planning law (Article 66B) to clarify that local governments must establish a limit on

- the length of time allowed for an APFO-based moratorium or delay in a development proposal within a Priority Funding Area (PFA); waive APFO requirements on certain affordable housing, infill or revitalization projects within PFAs; and prepare and publish a report every two years identifying facilities within PFAs that do not meet local APFO standards, and any improvements to those facilities that have been scheduled and/or proposed in the jurisdiction's Capital Improvement Program.
- o The State of Maryland should create an infrastructure financing program for growth areas that would be used for infrastructure improvements within PFAs. All projects financed through this fund, including schools, must be within a PFA and be identified in the local government's Capital Improvement Plan. Moreover, a match from the local government would be required. Specific priority from the fund would be given to projects that
 - a) Remove APFO restrictions or other moratoria that stop or retard development within PFAs; and,
 - b) Involve the renovation or rehabilitation of existing infrastructure.
 The fund would be used to "reward jurisdictions for measurable achievements to control sprawl and encourage Smart Growth.

Copies of the report, as well as copies of three "working papers" by Cohen and Bento that support the report, may be found on the website of the National Center for Smart Growth Research and Education at www.smartgrowth.umd.edu.

To talk to the researchers directly, Professor Cohen can be reached at (301) 405-6795 (or jcohen@ursp.umd.edu), Professor Bento at (301) 405-3429 (or abento1@umd.edu), and Professor Knaap at (301) 405-6083 (or gknaap@umd.edu).