



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230

410-537-3000 • 1-800-633-6101

Martin O'Malley  
Governor

Shari T. Wilson  
Secretary

Anthony G. Brown  
Lieutenant Governor

Robert M. Summers, Ph.D.  
Deputy Secretary

December 2, 2009

The Honorable Wilson H. Parran  
President  
Board of County Commissioners  
Courthouse  
175 Main Street  
Prince Frederick, MD 20678

Dear Commissioner Parran:

Thank you for the opportunity to attend MACO's November Board meeting. I greatly appreciate your including environmental issues on the agenda. The following information is provided as way of further background on the new stormwater requirements as they apply to redevelopment. You have raised important questions about how the regulations will affect the ongoing efforts to promote redevelopment and Smart Growth in Maryland.

The regulations establish different requirements, as you pointed out, for new development and redevelopment. The distinction is the preexisting amount of impervious surface. A site with 40 percent or less impervious surface is considered new development. This number was chosen because if a site exceeds 60 percent pervious, it is feasible to design a stormwater management system using low impact design techniques. Stormwater management requirements for new development would then be implementing "Environmental Site Design" to the maximum extent practicable to replicate the runoff conditions expected from "woods in good condition."

The State regulations also provide a tiered menu of more options for redevelopment. The redeveloper must propose a design that reduces existing impervious area by at least 50 percent, implements environmental site design to the maximum extent practicable to provide water quality treatment for 50 percent of the existing impervious area, or uses a combination of these. If site conditions prevent these requirements from being met, alternative practices may then be used. These include any combination of environmental site design, impervious surface reduction, or on-site or off-site best management practices. Local jurisdictions may incorporate even more options including retrofitting existing structural best management practices, stream restoration, developing watershed management plans, trading policies that involve other pollution control programs, and fees in lieu. These flexible requirements were specifically designed to ensure that the new regulations do not inadvertently discourage Smart Growth.



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In developing the standard, the Department reviewed stormwater programs across the country, and held a series of lengthy meetings with stakeholders to determine the best approach. Other jurisdictions make different choices. For example, Washington D.C. currently does not distinguish between new development and redevelopment – the same requirements apply. In Washington D.C., tear-downs are treated as new development, while gutting and renovation of existing buildings do not require enhancing stormwater management. Maryland's new regulations would apply in either case only if the project disturbed more than 5,000 square feet of ground; the 40 percent rule would differentiate new development from redevelopment. The State of Washington uses a 35 percent threshold for new development. Maryland used 40 percent based on professional judgment about what is technically feasible, the need to reduce nutrient loads to the Chesapeake Bay coming from stormwater, and public comments that ranged from recommendations to treat all development as new to retaining the old, existing standards for redevelopment.

All of the State's efforts to improve water quality could be undermined if we do not adopt sensible growth patterns, and the Department consistently reviews each set of requirements to make sure it is compatible with or encourages Smart Growth. While we think these approaches are sound, we recognize that there is concern among certain supporters of Smart Growth that this requirement, which will help reduce a major source of Chesapeake Bay pollution, will have the unintended consequence of discouraging Smart Growth. It is important, as you have done, to raise and discuss these issues.

As you may know, the State Task Force on the Future for Growth and Development is convening specifically to discuss the topic of Smart Growth and Stormwater. The purpose of the meeting will be to discuss in detail how the new standards are designed to work, how they accommodate redevelopment, how to develop a methodology for evaluating the impacts of the regulations on redevelopment on a real time basis, and to discuss other concerns. The meeting will be held at MDE starting at 1 pm on January 11, 2010. This meeting should provide a good forum to discuss these issues for any of your members who are so inclined.

Again, thank you for raising these important issues. You remind us that we all need to pay careful attention to the how environmental requirements intersect with the State's Smart, Green & Growing goals. If you would like to talk about this further, please call me at 410-537-3084.

Sincerely,



Shari T. Wilson  
Secretary

