Maryland Sustainable Growth Commission

Infill, Redevelopment, and Revitalization Initiative

Draft of Potential Recommendations for Public Comment

July 22, 2014

Comments Accepted Through August 20, 2014

www.bit.ly/i-r-r

Background

In response to a January 22, 2014, request from Governor Martin O'Malley and Lt. Governor Anthony Brown to recommend ways to accelerate quality infill, redevelopment, and revitalization (IRR), the Maryland Sustainable Growth Commission (Commission) has developed the following compilation of recommendations, reflecting input from many sources, including:

- interviews with local planners, practitioners, and elected officials from throughout the state
- interviews with stakeholders in case study communities
- an on-line survey
- the Maryland Planning Directors' Roundtable, an affinity group of planning directors from around the state
- a roundtable discussion with transit, housing, community, small business, environmental, and historic preservation stakeholders
- roundtable discussions with builders/developers and elected officials hosted by the Urban Land Institute
- a roundtable discussion with transit-oriented development practitioners
- discussions with and input from the Maryland Municipal League and Maryland Association of Counties
- a meeting with national experts on infill and redevelopment
- preliminary recommendations from the Partnership for Building Reuse, a project of the Urban Land Institute and the National Trust for Historic Preservation
- Commission review of recommendations from prior reports

These potential recommendations will further evolve as the Commission reviews them at its July 28 meeting in Easton, MD, and works with stakeholders to refine this draft. Nonetheless, the recommendations below demonstrate the many opportunities for Maryland to grow smarter and more sustainably.

The Commission is accepting feedback through August 20 via the initiative website, bit.ly/i-r-r.

Introduction

Maryland has always been a magnet for growth. It is well located on the East Coast, near Washington, D.C., the seat of federal government. Equally important is our diversity of place and the appeal of our cities and towns, our beaches, mountains, and access to the water, including the magnificent Chesapeake Bay. We are one of the most desirable places to live in the nation.

Close to six million people live in Maryland. The state measures 12,406 square miles. That makes Maryland the fifth densest state in the nation, with about 606 persons per square mile. Good planning is vital to ensuring that Maryland can accommodate everyone who wants to live here without irreparably impacting natural resources.

Maryland's growth policies should aim to ensure that residents can live in healthy, vibrant communities with a range of housing, employment, retail, cultural, and transportation options, and with access to good schools, safe streets, and quality open space, regardless of their income or the region in which they live. In many communities, an increase in the amount and quality of infill, redevelopment, and revitalization can contribute to these goals, and the state should work closely with local jurisdictions, communities, and the private sector to facilitate this growth where opportunities exist.

- The Commission is defining **"infill"** as the development of vacant parcels within previously built areas.
- **"Redevelopment"** is being defined as building or rebuilding on parcels that have been previously developed, with redevelopment aiming for a higher and better use of the area for the community.
- The term **"Revitalization"** is broader and speaks to instilling new life and vitality into a place through infill and redevelopment or other activities, such as building reuse and renovations, façade improvements, beautification efforts, small business loans, and special events.

Infill, redevelopment, and revitalization are equally relevant to urban and older suburban communities, and to towns of all sizes in urban, suburban and rural settings – regardless of whether the place is an incorporated municipality or an unincorporated part of a county. The context within which infill, redevelopment, and revitalization takes place will influence the look, feel, and scale of growth, ranging from the rehabilitation and reuse of a single building to projects encompassing many blocks. A small business opening on a main street in a rural town is just as important to that community as higher density, mixed-use development may be in an urban setting next to a metro station.

The Commission believes that accelerating quality IRR is integral to advancing Maryland's smart growth laws and policies, and furthers the visions as articulated in Maryland law:

1. Quality of Life and Sustainability

   A high quality of life is achieved through universal stewardship of the land, water, and air resulting in sustainable communities and protection of the environment.

2. Public Participation

   Citizens are active partners in the planning and implementation of community initiatives and are sensitive to their responsibilities in achieving community goals.

3. Growth Areas

   Growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers.

4. Community Design

   Compact, mixed–use, walkable design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural, and archeological resources.

5. Infrastructure

   Growth areas have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient, and environmentally sustainable manner.

6. Transportation

   A well–maintained, multimodal transportation system facilitates the safe, convenient, affordable, and efficient movement of people, goods, and services within and between population and business centers.

7. Housing

   A range of housing densities, types, and sizes provides residential options for citizens of all ages and incomes.

8. Economic Development

Economic development and natural resource–based businesses that promote employment opportunities for all income levels within the capacity of the State's natural resources, public services, and public facilities are encouraged.

9. Environmental Protection

Land and water resources, including the Chesapeake and coastal bays, are carefully managed to restore and maintain healthy air and water, natural systems, and living resources.

10. Resource Conservation

Waterways, forests, agricultural areas, open space, natural systems, and scenic areas are conserved.

11. Stewardship

Government, business entities, and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection.

12. Implementation

Strategies, policies, programs, and funding for growth and development, resource conservation, infrastructure, and transportation are integrated across the local, regional, state, and interstate levels to achieve these Visions.

Though the state has long worked to support existing communities and can point to many successful stories of revitalization, the need to accelerate the pace of quality infill, redevelopment, and revitalization, and expand its benefits to more existing communities, is readily apparent.

One review of state revitalization programs and progress published in 2010 by the Commission's predecessor Task Force on the Future for Growth and Development in Maryland – *Sustainable Maryland: Accelerating Investment in the Revitalization of Maryland's Neighborhoods* – found that there were three "building blocks" in place in those urban, suburban or rural communities where state and local revitalization investment had produced substantial results:

- a specific local target area
- a comprehensive, multi-year investment strategy and plan
- strong local leadership that remains focused on implementing the plan

In response, the General Assembly, with support from state agencies and local stakeholders, passed the Sustainable Communities Act of 2010. Among other things, the Act called for a new shared approach to planning for and investing in local revitalization priorities. This has been implemented as the Sustainable Communities Area designation program.

Much progress has been made in implementing this shared state and local approach to revitalization investment. However, the Commission believes that there are significant opportunities for further coordination and innovation in support of local priorities to accelerate high impact IRR investments.

In Maryland, local governments establish and implement land use policy with guidance from and standards set by the state. Guided by state statute, local governments designate Priority Funding Areas and Sustainable Communities to signal locations targeted by local governments for growth and revitalization. Local governments can also identify Targeted Growth and Revitalization Areas, which are based in policy rather than statute as part of the PlanMaryland framework for growth. Both the state and local government have a shared responsibility to target resources to these locally designated areas.

A wide range of potential recommendations for accelerating are organized below around the following general themes and principles which have emerged:

A. **Education & Technical Assistance**: IRR projects can be complex; more education and technical assistance is needed to lay the groundwork for progress.

B. **Equitable Development**: IRR projects can require substantial public and private investment, and a proactive approach is needed to assure that a full range of Marylanders benefit.

C. **Innovative and Effective Programs**: Maryland's core revitalization programs are well-regarded and effective, but a higher level of investment and strategic alignment and coordination is needed in order to achieve the potential for IRR.

D. **Regulations and Policies:** The state and local jurisdictions should identify and address regulations that might inhibit IRR and encourage further greenfield development.

E. **Targeted Financial Tools:** The state should enhance or create tools to support local priorities for IRR, with an emphasis on Targeted Growth and Revitalization Areas, especially designated Sustainable Community areas.

F. **Community Design and Preservation:** The state should work with local communities to help them preserve their unique character and historic assets while also integrating new investment.

G. **Metrics:** The state should have a system for forecasting and tracking IRR progress – for instance through StateStat.

H. **Transit Oriented Development:** Increased coordination and clear roles at the state and local levels are needed to accelerate high-impact TOD development.

There are 85 potential recommendations in this draft report, consolidated from 114 recommendations in a previous draft. The Commission will be reviewing these recommendations at its July 28, 2014, meeting.

The recommendations in bold and italics type throughout this document indicate those recommendations that received the greatest indication of support through an informal poll of Commission members.

Draft Recommendations

A. Education and Technical Assistance

Feedback indicates that jurisdictions have greater chance of success in attracting infill, redevelopment and revitalization if they work with stakeholders to establish a vision, market it broadly, and commit to it so that people know they can depend on its implementation, even over the long term. There is a need to educate the public, elected officials, and decision-makers about the benefits of IRR (including transit-oriented development); market dynamics; the financial implications of different development patterns; the benefits of compact, mixed-use development patterns; and the role of small business in revitalization efforts. All of these stakeholders play significant roles in decisions related to development, but they may not have the technical background to understand market dynamics, project finance, or design techniques. Therefore, it makes sense to ensure stakeholders have access to good information during the visioning process.

With respect to implementation of IRR, practitioners need access to accurate and timely information about best practices and funding opportunities; in many cases, they would like to learn how to combine different sources of funding to make a project work.

Many jurisdictions do not have the capacity to manage complex and expensive projects, whether publicly led or private initiatives in need of public support. Some jurisdictions identified the need for additional staff with specific expertise, such as design and deal negotiation, or training for staff on specific subjects, such as financing, affordable housing, and sustainability. One survey respondent noted the need for someone who can spur creativity and build public support. Some smaller jurisdictions need technical assistance with planning and developing a vision for their communities.

In some communities, the private sector has trouble finding people who can conceive designs that are appropriate for historic buildings, mixed-use projects, green buildings, and transit-oriented development, and implement them.

In other jurisdictions, well-meaning but inexperienced community development corporations could benefit from training in real estate development to build capacity.

Elected officials often play a significant role in decisions related to development, but may not have the technical background to understand market dynamics. They and state and local government staff often may not understand how their actions influence IRR – they often focus on the immediate issue at hand rather than the big picture. In many cases, understandably, elected officials are simply responding to constituents.

Draft Recommendations

A1. Each local government and its stakeholders should develop and adopt coordinated economic development and community revitalization strategies that focus on infill, redevelopment, and revitalization, if they have not already done so, and then integrate the strategies into the comprehensive plan and all aspects of planning, zoning, budget, and management.

A2. The Smart Growth Subcabinet (Subcabinet), working with the Governor's office, should emphasize the state's focus on infill, redevelopment, and revitalization. The administration should consider methods to implement this recommendation, such as creating a brand and communications strategy for IRR; establishing a liaison for infill and redevelopment projects, revitalization policies, and funding; disseminating information about best practices; and helping local jurisdictions target, plan, advocate for, and track catalytic infill, redevelopment, and revitalization projects.

A3. MDP should coordinate with Subcabinet agencies to maintain a comprehensive "one-stop" on-line resource dedicated to infill, redevelopment, and revitalization, with access to information about funding opportunities, best practices, and other relevant items. The Smart, Green, and Growing website could be adapted for this purpose.

A4. State agencies, working with third party experts as appropriate, should develop educational modules on topics that will help local governments undertake IRR:

- potential benefits of IRR
- planning for and funding projects, including how to use and layer state programs
- the role of small business in community revitalization and what it takes to open a business
- the role of density in the economic viability of IRR
- building, energy and green codes
- community design techniques to engender public support for infill and redevelopment
- successful transit-oriented developments that promote a walkable environment and transit ridership
- Coast Smart and climate resilient practices
- meeting stormwater management, Forest Conservation Act (FCA) and other regulatory requirements for infill and redevelopment projects

- alternative methods to address water allocation in the Piedmont region
- affordable housing techniques such as inclusionary zoning

These modules should be web-based, but also presented at regional meetings and workshops convenient to elected officials, members of planning and historic district commissions, state and local government staff, town administrators, developers, Realtors, business owners, the public, and the media.

A5. State agencies should work with interested local jurisdictions and other stakeholders, including the National Center for Smart Growth (NCSG) and other academic institutions, to research and share information that will help evaluate the benefits of infill, redevelopment, and revitalization, including the financial return of compact, mixed-use development.

A6. The Department of Housing and Community Development (DHCD) should provide financing expertise and technical assistance to local governments and developers to increase the supply of affordable housing for low-income and workforce populations, especially in Sustainable Communities and areas with opportunities for transit-oriented development.

A7. The Subcabinet should provide oversight to state agencies as they undertake the process to institutionalize the Coast Smart Siting and Design Guidelines, especially for infill, redevelopment, and revitalization, into appropriate architecture, engineering, construction and design manuals; regulatory programs; state planning, permitting and review processes; disaster planning and response programs; and capital budgeting.

B. Equitable Development

The state can help ensure that residents live in healthy, vibrant mixed-income communities with good schools and a range of housing, employment, and transportation options, regardless of their income, race, or the region in which they live.

Jurisdictions with good schools, lower rates of crime, access to jobs, and a good quality of life can attract infill, redevelopment, and revitalization but often struggle to maintain economic diversity within their residential population. Communities with strong markets often suffer from a lack of affordable housing and school overcrowding. According to a housing market report prepared by DHCD's Office of Research, "Maryland continues to experience acute shortage of workforce affordable rental housing for families, seniors and individuals with disabilities in Maryland."

Other communities need to improve schools, address the perception or reality of crime, enhance quality of life, increase access to jobs, or all of the above, to attract infill, redevelopment, and revitalization. People who live or work in communities that suffer from disinvestment are concerned about crime, jobs, education, the concentration of social services, a disproportionate number of affordable housing units, housing quality, property maintenance, vacant buildings, difficult landlords, nuisance tenants, and access to good parks, shopping, and services. Moreover, affordability is relative to what people earn; in some jurisdictions, many residents still cannot afford homes considered by many to be inexpensive, and these homes are frequently in poor condition and located in unsafe neighborhoods. Some of these jurisdictions noted an insufficient supply of housing to attract middle-income residents, one of their main priorities.

Many jurisdictions also feel that the courts are too lenient on absentee property owners and disruptive tenants.

Draft Recommendations

B1. The Department of Business and Economic Development (DBED) and local governments should work together to identify, in all regions of the state, Targeted Growth and Revitalization Areas, especially Sustainable Communities that are prime targets for job growth, and direct state infrastructure and economic development funds accordingly.

B2. DHCD, local governments, and interested stakeholders should work together to ensure that communities share the responsibility and opportunity for integrating affordable housing into IRR activities.

B3. The Subcabinet should encourage the priority of programs for IRR in areas with high rates of vacancy, foreclosure and blight, as well as programs that target food deserts and conversion of blighted, unrecoverable properties to green spaces and community gardens, with a particular focus on Targeted Growth and Revitalization Areas, especially Sustainable Communities. The Subcabinet should also publicize and promote where such activities are working to improve neighborhoods and encourage local jurisdictions and main street organizations to share their approaches to dealing with absentee landlords, inconsistency in businesses' operating hours, heightened code enforcement, and other issues.

B4. The Maryland Higher Education Commission, working with interested stakeholders, should investigate the establishment of programs that guarantee a partial college scholarship for children who live in targeted areas for a certain period of time.

B5. The Commission in consultation with local government should evaluate and make recommendations on tools that capture a portion of the increased revenue that results from state investments and distribute it to a local government, Community Development Corporation or similar community-based organization, which can then use the funds for community priorities.

B6. The Subcabinet should enlist the State Department of Education and Governor's Office of Crime Control and Prevention to identify ways to improve the quality of public education and public safety in existing communities.

B7. State agencies and local governments should think creatively about ways to turn public necessities into potential economic opportunities for residents. For example, in some places people are converting impervious to pervious land on their properties or adding forested buffers and selling it to developers who use it to meet SWM requirements.

B8. DNR should reach out to underserved communities that have the least access to nature and develop and implement a comprehensive program to increase access and utilization of public lands and waterways for underserved communities.

C. Innovative and Effective IRR Programs

"*Marshal state designations in a coherent, logical* way." – Gary Hodge, Regional Policy Advisors

The state has excellent programs to support infill, redevelopment, and revitalization, but there is room for improvement. The state should use the resources of all of its programs to support infill, redevelopment, and revitalization.

Local officials and developers often find it difficult to combine multiple sources of funding for a project or to use state funding for a phased project, due to varied grant deadlines, unknown dates for award announcements and receipt of award, requirements to spend the money within a certain timeframe, matching funds, and other restrictions and rules. Even communities that successfully access state funds cannot always plan around them, because future funding levels are known only on a year-to-year basis. Particularly when combined with local programs, the number and complexity of incentives can be overwhelming.

In addition, public funds could better support "mid-market" projects, projects proposed by or for people who do not qualify for income-restricted funds but are also unable to access private equity and loans. Though the state has some programs applicable to market-rate projects, such as Community Legacy, Neighborhood BusinessWorks and Sustainable Communities Tax Credits, there is a need for additional resources for both commercial and residential projects.

In addition, the relative lack of funds for predevelopment work, such as planning, architecture, and engineering, can make it difficult to get a project to the point where it is eligible for state funding, and the lack of operating funds can make it difficult to fund things like strategic code enforcement, planning, and grant administration. The new Strategic Demolition and Smart Growth Impact Fund (SD-SGIF) is an important step in the right direction, with $17.5 million allocated to predevelopment activities over the last two fiscal years.

Entities that might take advantage of some of the state's programs may not be aware of applicable programs or understand how to use them. Marketing, outreach and technical assistance to program applicants is important to ensure that existing state programs reach diverse recipients across the state. The Sustainable Communities Tax Credit program, for example, though well used in Maryland's larger municipalities, is less well known in other areas of the state. Development of an aggressive marketing and community education campaign for that program is now underway to reach target audiences who are unfamiliar with this revitalization tool.

The success of any program also depends on the efficiency and clarity of the post-award process. Uncertainty and delays surrounding grant agreements and release of funds can jeopardize projects.

Tax incentives have particular drawbacks. For example, tax credit programs do not offer necessary up-front money and in some cases, the complexity of the credit program outweighs the value of the tax credits. Tax deferrals can be counter-productive because jurisdictions need the tax revenues and do not always realize the full anticipated future tax benefit. Some say that tax deferrals do not grow the tax base if the project that received the deferral does not perform as anticipated.

The implementation of state programs (or state allocation of funds from federal programs) does not always facilitate the creation of economically diverse, mixed-use, accessible communities. When investing funds, the state should be cognizant of how they may influence community diversity.

Draft Recommendations

C1. ***The administration should establish a sustainable funding source for its core programs focused on infill, redevelopment and revitalization with the aim of providing at least $100 million annually.*** Core revitalization programs currently include Community Investment Tax Credits, Community Legacy, Neighborhood BusinessWorks, Strategic Demolition and Smart Growth Impact Fund, Baltimore Regional Neighborhoods Initiative, Town Manager Circuit Rider Grant Program, Sustainable Communities Tax Credit, Heritage Areas Grants, and Community Parks and Playgrounds.

C2. The Subcabinet should align and streamline state application processes and timelines for core programs focused on infill, redevelopment, and revitalization. Make the answers to as many of the questions as possible transferable from one application to another, to avoid duplication. Streamline the application processes and make the applications shorter and less repetitive in their questions. State agencies also should establish, make public, and adhere to timeframes for review, award, and other milestones important to applicants. Explore the possibility of accepting applications on a rolling basis for more programs.

C3. The administration should expand operating funds for such purposes through existing programs like Community Legacy or the Strategic Demolition and Smart Growth Infrastructure fund for pre-development soft costs such as architecture and engineering, or similar needs in conjunction with targeted revitalization efforts. Similarly, the state should allocate funds for operating expenses through Community Legacy to address needs like planning, grant administration, relocations, and targeted code enforcement.

C4. MDP and Maryland Historical Trust (MHT) should work with federal liaisons to ensure that Congress sustains the Federal Rehabilitation Tax Credit program. MDP and MHT also should seek state legislative support for strengthening the Sustainable Communities Tax Credit, returning the commercial credit to a traditional credit instead of an annually appropriated grant/tax credit hybrid, and restoring funding for technical support of local nominations to the National Register.

C5. MDP should explore creation of new incentives for adaptive reuse that retain community character but may not require adherence to Secretary of the Interior's preservation standards.

C6. The Smart Growth Subcabinet agencies, led by DBED and DHCD, should develop a comprehensive marketing program for all of the state's incentives programs targeted to IRR.

C7. Subcabinet agencies should allow in-kind services to be used for matching requirements if not currently permitted, to the extent possible.

D. Regulations and Policies

The state should ensure that its regulations and policies facilitate infill, redevelopment, and revitalization, while still protecting public health and safety, and the environment.

Regulations can increase costs, delay construction, reduce future revenue, make it more difficult to accommodate a project on a particular site, or deter businesses from opening, renovating, or expanding.

Some of the most frequently cited issues with respect to regulations and policies include:

- Lack of coordination among and within agencies
- Duration of and uncertainty related to agency reviews
- Lack of communication with the applicant
- Inflexibility on the part of permit review staff
- Inconsistency in the application and interpretation of regulations among different projects, as well as over the life of a project
- Inconsistency in the items that building inspectors require before signing off on occupancy permits, even on subsequent visits to the same site
- Redundant business licenses and fees
- Adequate public facilities ordinances, which can delay projects if adequate facilities do not exist

Regulations and policies that were identified as potential challenges to achieving the state's goal of increasing quality infill and redevelopment include stormwater management, forest conservation, TMDLs, the energy code, and some State and Federal Highway Administration standards, such as mid-block crossings, curb cuts and access points, and funds for sidewalk construction but not maintenance. Though the stormwater management regulations have built-in flexibility for infill and redevelopment projects, the frequency with which this was identified as a challenge means that there is still opportunity for improvement in communication, education, and implementation. With respect to the energy code, the 2015 IECC Code removes the exception for designated buildings and instead includes an appeals process that is unpredictable and adds time and cost.

With respect to land use regulations, some contend that the state law requiring consistency between local land use plans and ordinances is too constricting in jurisdictions with extremely detailed comprehensive plans. The time it takes for local jurisdictions to update or amend their comprehensive plans exacerbates this problem.

Fee structures generally do not take differences in market conditions into account. Payments that may not present much of a burden in strong markets may be insurmountable in soft markets.

Adequate public facilities ordinances (APFOs) and impact fees are designed to ensure that the public is well-served by infrastructure and public services, which are valid public purposes. Sometimes, however, these ordinance can have unintended consequences of stalling growth in areas designated for growth.

Draft Recommendations

D1. The Subcabinet should coordinate an effort by state agencies to examine the potential for instituting a tiered approach to state fees to benefit those undertaking infill, redevelopment, and revitalization activities, in Targeted Growth and Revitalization Areas, particularly in Sustainable Communities. Local governments should be encouraged to do the same. The Subcabinet should also coordinate an effort by state agencies to examine the potential for adjusting fees to accommodate different market conditions in Targeted Growth and Revitalization Areas throughout the state.

D2. The Subcabinet should coordinate Subcabinet agencies' assessment and improvement of state regulatory review processes to achieve faster and better response times, more certainty and greater transparency, and then integrate improvements among all agencies. State agencies should establish, publicize, and adhere to deadlines, coordinating closely with local processes, and assign one point person per agency to coordinate the review. Similarly, the Subcabinet should coordinate an effort by state agencies to ensure that the state business permitting processes are clear and predictable, and identify and eliminate redundant licenses, fees, and inspections.

D3. Local jurisdictions should require pre-application meetings with developers to provide certainty at the beginning of the infill and redevelopment process and agree upon requirements, such as stormwater management, infrastructure, forest conservation, public input, and density. At the pre-application meetings, identify necessary state reviews, inspection frequency, and required public input. Relevant state agencies should participate in the pre-application meetings and all agencies should identify opportunities to combine public input processes as appropriate. State agencies and local governments should make efforts to limit reviews of subsequent submittals to those issues identified by prior submittals, issues that arise due to material changes in the plan, or new information that has come to light. All rules should be readily accessible.

D4. The Subcabinet should bring relevant local and state agencies together to discuss and resolve issues related to IRR projects requiring approvals from multiple state agencies.

D5. DBED should examine the Fast Track process and make necessary improvements to ensure that it works as intended to move large and small, public and private infill, redevelopment, and revitalization projects through state processes more quickly and with more predictability.

D6. The Subcabinet should encourage state agencies to regularly review state permits to determine if state approvals can last longer or be extended for infill and redevelopment projects in Targeted Growth and Revitalization Areas, particularly Sustainable Communities. Local governments should be encouraged to do the same and allow for changes in uses over time without having to go through a new entitlement process.

D7. State agencies and local regulators must ensure clear and regular communication between permit review staff and applicants. They also should make certain that permit review staff are up-to-date on the latest technology/best practices, understand state and local requirements and goals for revitalization, and have access to policy and technical resources within their agency when faced with new approaches to meeting a state or local regulation.

D8. The Subcabinet should coordinate an effort by state agencies to investigate the feasibility and desirability of allowing third party reviews of state permits and encourage local governments to do the same.

D9. State agencies should maintain public records of variances granted for specific code issues, so that anyone involved in the rehabilitation or reuse of an existing building can access the information. Local governments should be encouraged to do the same.

D10. The Subcabinet should coordinate an effort by state agencies to address concerns that stormwater management and forest conservation act requirements discourage infill and redevelopment; agencies should communicate existing flexibility and alternative compliance options to the development community and local agency staff to ensure their use in infill and redevelopment.

D11. State agencies should identify areas of conflict among historic preservation, green building, ADA, fire, and related codes, and opportunities for resolution of conflicts. Communicate with property owners prior to commencement of rehabilitation projects.

D12. DHCD should develop an educational campaign regarding the benefits and use of the Maryland Building Rehabilitation Code by local governments.

D13. Establish a rapid response team within the State Highway Administration to focus on smaller projects, such as sidewalks, crosswalks, and striping for bike lanes, in Targeted Growth and Revitalization Areas, especially Sustainable Communities.

D14. Local governments should investigate innovative approaches to ensure adequate public facilities and, working with the Commission, identify ways to minimize the impact of adequate public facilities ordinances (APFOs) and impact fees on infill, redevelopment, and revitalization in Targeted Growth and Revitalization Areas, especially Sustainable Communities. For cases in which an adequate public facilities ordinance has the effect of stalling a development project in these areas, local governments should strive to rectify the problem that triggered the impediment.

D15. Encourage better inter-jurisdictional coordination of development, transportation, and school construction, as well as consistency in adequate public facilities ordinances, to support infill, redevelopment, and revitalization.

D16. State agencies and local governments should encourage public input at the very beginning of the planning and development process, both at the state and local level, so that the parties can agree ahead of time to what they want, while also promoting greater transparency and predictability. Within Targeted Growth and Revitalization Areas, especially Sustainable Communities, state agencies and local governments should streamline processes, particularly for by-right projects, and strive to minimize frivolous appeals. The Commission and local governments should work together to create a model mechanism to resolve disputes about development projects and include evaluation of the proposal's consistency with smart growth goals.

D17. The Commission and local governments should work together to examine possible improvements to the local development negotiation and agreement process, possibly recommending amendments to the enabling legislation for Developer Rights & Responsibilities Agreement (DRRA) to address DRRAs specifically in Targeted Growth and Revitalization Areas, especially Sustainable Communities.

E. Targeted Financial Tools

"*The best thing you can give a developer is a market*." – Dave Ryan, Salisbury-Wicomico Economic Development, Inc.

"*If you do not love or value your community, no one else will*." – Gwen Wright, Montgomery County Planning Department

The state should use its financial resources to support IRR in Targeted Growth and Revitalization areas, especially in Sustainable Communities, throughout the state.

In soft market areas, future revenue streams may be so low that projects are not financially viable. A project must have the ability to attract end-users that generate sufficient revenue for an acceptable level of return on investment; if not, the project is not feasible and will not (and arguably should not) be built. The level of investment often needed to rehabilitate existing buildings or redevelop existing sites exacerbates this issue. In soft markets, few private sources of funding exist, and the public sector is typically limited to gap financing, so state financial support may be insufficient to overcome market weaknesses.

Even in healthier markets, a jurisdiction may be unable to compete with a neighbor that enjoys an even stronger market, because the private sector invests where the return on investment is greatest and most secure. Though research shows that counties and municipalities benefit from the strength of the region as a whole, it is also important to acknowledge that a jurisdiction's ability to attract redevelopment is linked to the relative strength of markets in neighboring jurisdictions.

Geography plays a role in the market as well. One case study community, a place with significant opportunities for infill, redevelopment, and revitalization, cited its isolation and the lack of residents nearby to draw upon as shoppers or attendees at special events, as a barrier.

As a result of the recent downturn in the market, many investors lost property to lenders or had to sell at a loss. In at least one high-profile case, several banks ended up owning a significant amount of land but did not share the same values and vision as the original owner. Many property owners cannot sell their property for a price high enough to pay off the lender.

It is often difficult to envision the potential in places not currently experiencing growth. The failure to appreciate the potential of a community or to visualize a different future manifests itself in declines in property maintenance, higher return on investment criteria, less favorable loan terms, and "lowest common denominator" property owners who do not serve the community. On the flip side, some owners have unrealistic expectations regarding their properties' value, and they leave their sites vacant while waiting for an unreasonable offer.

Most jurisdictions need to upgrade the capacity or quality of their infrastructure to attract infill, redevelopment, and revitalization. Due to aging infrastructure, municipal permitting fees, stormwater improvement and retrofit needs, water/sewer pipe capacity inadequacies and other challenges with infill development, the cost of development is significantly higher in municipalities and unincorporated older communities. In the Sustainable Communities trends assessment, 94% of Sustainable Community areas identified aging infrastructure as a challenge to becoming more sustainable. Though all jurisdictions struggle to pay for infrastructure, some fiscally constrained jurisdictions have trouble financing the bare minimum of services, let alone repairing or upgrading infrastructure. Moreover, their tax base is fully utilized.

Where the public sector spends scarce resources can facilitate or derail efforts to attract infill, redevelopment, and revitalization. In some jurisdictions, public sector actions inadvertently continue to subsidize greenfield development at the expense of infill, redevelopment, and revitalization.

In addition to the expense of infrastructure upgrades, the level of investment necessary to rehabilitate existing buildings or redevelop existing sites is often more expensive than development on greenfield sites and can make infill and redevelopment cost prohibitive. Some of the added or increased costs may include land assembly, demolition, structured parking, environmental remediation, stormwater management, utilities, vertical construction, traffic mitigation, community amenities, pre-construction costs and delays, and uncertainties for lenders. There is also the added challenge of building on smaller sites, constraining the ability to move equipment and install infrastructure, and the frequent inability to build to the extent permitted by zoning due to a number of factors, including regulations and community opposition.

Infill and redevelopment sites are frequently located in places which investors consider high risk, and, thus, require a higher return on investment and offer less favorable terms. The lack of established financing norms increases investors' wariness of mixed-use projects. While developers more often overcome this barrier in stronger markets, the cost premium still factors into a developer's decision-making process, regardless of the strength of the market.

Further, many infill, redevelopment, and revitalization projects are relatively small, making it difficult to achieve economies of scale.

Long-time property owners, in many cases, have no incentive to rehabilitate or redevelop because their buildings are generating sufficient revenue without improvements or serve as tax write-offs. Therefore, many buildings remain vacant or underutilized simply because the owner is not financially motivated to make a change.

Tax structure is a related issue, as it factors into location decisions for residents and business owners, is directly tied to a jurisdiction's ability to pay for public improvements, and can act as an incentive or disincentive for building reuse and development of underutilized land. Municipalities often have higher tax rates than counties, a factor that can deter investment. In some cases, the higher tax rate is a function of providing services to county residents and not receiving a commensurate tax differential payment from the county. Tax assessments that are incongruous with market values can place potential buyers at a disadvantage.

Draft Recommendations

E1. All Smart Growth Subcabinet agencies must make infill, redevelopment and revitalization a

clear priority by strategically aligning state investments, budgets, regulatory authority, actions, and resources, including surplus real property, to support the strategies identified in local plans for infill, redevelopment, and revitalization, and to further incentivize local decision-making that supports targeted infill, redevelopment and revitalization priorities. Growth-related resources (e.g., roads, sidewalks, bike routes, transit, water and sewer facilities, schools, libraries, community revitalization funds, business and economic development funds and programs, etc.) should help foster a favorable market for infill, redevelopment and revitalization in Targeted Growth and Revitalization Areas, especially designated Sustainable Communities.

E2. ***State and local agencies should identify opportunities to reduce the scope of projects that do not support smart growth goals. For example, MDOT should identify opportunities to reduce the scope of state transportation projects that do not support smart growth goals, or otherwise amend their design.***

E3. The Commission should continue to explore opportunities to increase the use of Tax Increment Financing (TIFs) at different scales to facilitate infill, redevelopment, and revitalization by using state revenues to support TIF districts, providing more flexible authority to use local revenue sources to support TIF districts, and structuring small-scale TIFs that are more affordable for smaller jurisdictions.

E4. ***Maryland should create a dedicated Smart Growth Infrastructure Fund or bank that can, among other things: offer grants and low-cost financing for local infrastructure needs; leverage private infrastructure investments for infill and redevelopment projects; fund enhancements such as pedestrian and bicycle infrastructure, increased tree canopy and green space in Targeted Growth and Revitalization Areas, especially Sustainable Communities; support transit-oriented development; or subsidize mixed-income housing.***

E5. The Subcabinet should work cooperatively with the Maryland Municipal League and Maryland Association of Counties to develop strategies that help municipalities and counties address the cost of infrastructure maintenance and minor upgrades to support IRR.

E6. ***The Commission should build upon the work of the 2013 Local & Regional Transportation Funding Task Force and further explore long-term financing mechanisms for new or expanded regional transportation systems that support infill, redevelopment, and revitalization, such as a regional sales tax; expansion of the local-option vehicle registration fee; expansion of the local-option income tax increment; and expansion of local jurisdictions' real estate transfer tax authority.***

E7. The General Assembly should consider increasing local jurisdictions' share of Highway User Revenues for use on projects that support infill, redevelopment, and revitalization.

E8. State and local governments should increasingly partner with private developers, financiers, and others to facilitate infill, redevelopment, and revitalization. The Subcabinet should identify ways to provide local governments with the technical assistance necessary to implement public/private partnerships.

E9. Maryland should create and deploy a Smart Growth Investment Fund, work on which has already begun following legislation passed in 2013.

E10. DHCD should develop a product for mid-market projects, including acquisition/rehabilitation tools for homeownership.

E11. State agencies should work with the finance industry to increase interest in infill, redevelopment, and revitalization by demonstrating the potential for higher rates of return on investments in compact, mixed-use development projects, and to develop financing norms for mixed-use development; work collaboratively to explore the creation of a State Community Development Financial Institution (CDFI) Fund for such projects.

E12. State agencies should evaluate how to increase the number of designated Main Streets and its residential counterpart, Maple Streets, including how to help these areas undertake market studies, access demographic and consumer data, market targeted infill and redevelopment areas to developers, business tenants, and potential residents and encourage local business ownership.

E13. Local governments, with assistance from DBED and DHCD, should develop initiatives to foster business development within targeted revitalization areas. Initiatives could include: direct grants and loans to businesses willing to occupy vacant and underutilized buildings; financial and design assistance; and community outreach to encourage and solicit potential new business owners.

E14. Local governments should consider offering innovative support for small business development in Targeted Growth and Revitalization Areas, especially Sustainable Communities including: financial guarantees for landlords who lease to small business owners; reduced permit fees for IRR projects; and incentives for and reduced regulatory barriers to creative uses of space that foster entrepreneurship. Entrepreneurial enterprises might include pop-up stores, shared business space, urban farming, farmers markets, and special events. The state should consider enabling legislation to allow provision of periodic tax relief within Sustainable Communities.

E15. DBED and DHCD should expand technical assistance for entrepreneurs and micro and small businesses trying to establish themselves in Maryland Main Streets or Sustainable Communities.

E16. The general assembly should consider reducing the approval threshold for the creation of business improvement districts.

E17. The general assembly should consider broadening the One Maryland Program to allow economically distressed municipalities that are not located within economically depressed counties to access the program's resources.

E18. When reviewing Priority Funding Areas law exception requests, the Subcabinet coordinating committee should consider impacts on existing communities.

E19. DHCD should take the lead in strengthening partnerships between holders of New Markets Tax Credits and state agencies to focus tax credit benefits on strong infill or redevelopment projects.

E20. The state should work with interested local jurisdictions to determine the incentives or disincentives of local tax codes and related policies and align them with infill, redevelopment and revitalization goals. Opportunities include examining how reliance on income and real property taxes influences land use decisions, what kinds of tax changes could help low-income residents stay in their homes as neighborhoods revitalize, and how adoption of split rate taxes, in which land is assessed at higher property tax rates than improvements to incentivize redevelopment of vacant lots, may benefit infill, redevelopment, and revitalization. The state, led by DBED, and local jurisdictions should also monitor tax policies and incentives for their impact on IRR.

E21. The State Department of Assessments and Taxation should adopt a defined methodology for the assessment process and increase transparency.

E22. DHCD and MDP should provide technical assistance to local governments interested in establishing a land trust, land bank, and/or an affordable housing trust fund to facilitate IRR projects and the retention of affordable housing in strong markets.

F. Community Design and Preservation

"*Revitalization cannot be prescriptive*." – Marsha McLaughlin, Howard County Department of Planning and Zoning

"*We are talking about placemaking*." – Jim Chandler, Hyattsville Community and Economic Development

The state should work with local jurisdictions and communities to preserve their character and historic assets while integrating new investment, and encouraging walkable, mixed-use development projects with quality green space. While often perceived as superficial, design is a vital component of livability.

Many places face physical barriers to infill, redevelopment and revitalization that require creative solutions. For example:

- An area targeted for revitalization is physically disconnected from other parts of downtown and key anchors.
- A highway or railroad track bisects the targeted area.
- The existing physical environment is difficult to retrofit for any number of reasons, such as location of below-grade infrastructure, complicated intersections, or small parcels.
- Site and design requirements of national retailers can make it more difficult to attract these tenants and protect community character.

While there is increasing recognition of the positive impacts density can have on community vitality and the synergy between residential and commercial uses, infill, redevelopment, and revitalization projects, due to their settings within existing communities, frequently face opposition. People particularly object when projects increase density, change traffic patterns, establish new bicycle, pedestrian or vehicular connections, or introduce new housing types or uses – often the very things that ultimately make these projects well-loved and financially successful.

<u>Draft Recommendations</u>

F1. State agencies should facilitate the development and delivery of public education and technical assistance on design techniques, best practices, and regulations to achieve goals such as encouraging alternative transportation modes and supporting healthy lifestyles; preserving a sense of place and historic character; using greenways, corridors and trails to connect schools, residential areas and public buildings; creating vibrant public spaces; using green infrastructure to increase the benefits that people gain from the natural environment, meet bay restoration goals, and promote economic development; and boosting support for increased density.

F2. State agencies also should strive to minimize institutional resistance from lending institutions to mixed-use development. One way to achieve that is to highlight best practices and provide tools to achieve mixed-use development.

F3. For major mixed-use infill and redevelopment projects, local governments should use charrettes and/or pattern books, illustrative guides that show people how to build places using local examples of well-loved buildings and streets, both of which can enhance support for the project.

G. Metrics

The state agencies should track progress toward creating healthy, livable communities, similar to how they record many of their other goals in StateStat.

<u>Draft Recommendations</u>

G1. The Subcabinet should institute a process within the StateStat structure for ongoing review and evaluation of progress on successful infill, redevelopment, and revitalization, measuring increased targeting of state resources, growth in economic activity, jobs, Main Street business development, tax revenue, population, capital investment, and volunteer engagement, and improved environmental quality within targeted communities.

H. Transit-Oriented Development

To assist the Commission in responding to the Governor's and Lieutenant Governor's request, a panel of transit-oriented development experts was convened on June 4th to solicit input on TOD issues and to identify potential solutions to those issues. This group is meeting again on July 24. The TOD recommendations in this draft report appear separately below while work continues on the TOD recommendations.

State leaders should encourage transit-supportive land use in locations throughout the state near existing or proposed transit, as well as pedestrian-friendly land use in existing communities throughout the state, regardless of the presence of transit, to encourage alternative forms of transportation. Transit-oriented developments (TODs) are places of relatively higher density, pedestrian-friendly development, with a mix of land uses located within a short walk of transit. TODs face most of the same challenges as other infill, redevelopment and revitalization projects, but usually with added challenges discussed generally below.

TOD projects are complex, and their success depends on many factors. This is because every TOD project consists of diverse public and private project elements; advances a broad range of public and private goals; and is supported by a diverse range of state, local, and private partners. TOD projects are also subject to a wide range of citizen and regulatory reviews, making the TOD implementation and approval environment extraordinarily complex. One of the most important ways for TOD to be advanced in the State of Maryland is for participants in the TOD "enterprise" to understand not only their own goals and roles in promoting TOD, but those of other participants as well. To facilitate the creation of productive partnerships for TOD, and to help manage the complexity of the TOD effort, stakeholders should take action to define and communicate anticipated roles, resources, and expectations they bring to the TOD process.

Community and local government stakeholders continue to be concerned about the potential of TOD to increase congestion, contribute to parking shortages, change community character, crowd schools, and draw new, different residents. It takes time and resources to work with the community to address these issues. Resources to address local concerns and justify/support exceptions to standard rules are frequently inadequate. Benefits of TOD to state and local governments and to community and business stakeholders are insufficiently documented and quantified, both at a policy level and on a project-by-project basis.

Public and private TOD participants sometimes have unrealistic expectations about what their partners can and should do to advance projects.

While providing affordable housing in some TODs is recognized as desirable, it is difficult to assemble all the elements. There is a perception that TOD creates new value that could support affordable housing purposes. However, infrastructure needed for TOD frequently requires subsidies, and, in such cases, land transfer proceeds are prioritized for that purpose.

Not enough places in Maryland have all the ingredients for successful TOD, such as strong real estate markets; high-quality transit service; and walk-able/bike-able settings surrounding transit routes and stations.

In several jurisdictions, the market for TOD is not supported by complete streets and transit infrastructure, and they lack funds to achieve that.

Engineering standards that prioritize automobiles pose obstacles that impede progress for TOD and walkability.

At some transit stations, free commuter parking makes potential TOD projects harder to fund/finance by making it harder to generate revenues from private parking garages.
Local regulations impose burdensome parking costs and restrict the flexibility of developers to program land uses that are tailored to markets (e.g., need to design in flexibility to evolve TOD projects over time).

The process for allocating TOD incentives is often uncertain, in part due to a lack of clarity in how state and local jurisdictions define TOD and how state and local policies and resources (including state TOD Designation) will support TOD, and the magnitude of incentives is often insufficient.

Businesses that receive public support to build project-serving infrastructure or other guarantees and supports need to be willing to accept lower rates of return. In other words, if the public is willing to take on some project risks, developers need to reflect that in anticipated returns.

Assembling land to facilitate action on TOD opportunities is time-consuming and politically challenging for government sponsors, and economically challenging for private developers.

Draft Recommendations

H1. Develop mechanisms to establish lead and supportive roles and responsibilities of all stakeholders in the TOD process, to provide guidance on available resources and to help coordinate and navigate the decision-making process. Potential partners in promoting TOD (agencies, residents, developers, etc.) will benefit from clarifying their own goals and developing a realistic understanding of how their objectives can be supported by TOD-related activity.

H2. Encourage local governments to promote TOD through adoption of plans, policies and programs that:

- Clearly support and prioritize TOD as the preferred development
- Are supported by local zoning and development ordinances, including favorable parking standards
- Are supported by complementary facility development plans for schools, libraries, affordable housing, stormwater management, etc.
- Involve the public in adoption of plans and acceptance/encouragement of TOD
- Quantify the costs and benefits of TOD
- Provide favorable markets for development around transit stations, including public sector leasing of space

H3. The state and local governments should expand outreach, more clearly articulate TOD policy objectives, conduct a study to quantify benefits of TOD to create a stronger basis for allocation of state and local resources to TOD-promoting activities, and develop tools for education, planning, and outreach.

H4. State agencies should help local jurisdictions better plan for and implement transit-oriented development by sharing best practices, particularly related to design, financing, regulatory issues; gathering and sharing empirical data regarding school, transit, and vehicular travel impacts of TOD; addressing community needs and concerns; and providing direct technical assistance to support pre-development planning at existing and potential transit stations or corridors. Include the whole community around each TOD site to ensure it has access, strengthens adjacent areas and expands the area of benefit and opportunity.

H5. Invest in state-of-the art stakeholder engagement tools to identify TOD supporters in community settings, and to motivate and engage them so that public comment on TOD projects is more balanced.

H6. Explore mechanisms to promote land assembly using approaches that avoid eminent domain and limit economic strains on development partners.

H7. Consider a dedicated source of funding for TOD, such as a TOD revolving loan fund to provide gap financing for TODs.

H8. Alter MDOT's policy of free parking for commuters at TOD locations (not necessarily all at once, but as market conditions change).

H9. Adopt and use urban road standards for local and state roadways in TOD areas.

H10. MDP, with assistance from other agencies, should provide technical assistance to support pre-development planning and coordination of resources towards achieving TOD.

H11. Give local governments more flexible authority to use local revenue sources to support TIFs or bonds connected with the creation of TOD infrastructure.

H12. Consider enhanced incentives for TOD projects that incorporate housing that is affordable to the workforce at a range of income levels.

H13. Define and implement a program for financing bicycle and pedestrian facilities in all TODs, and for financing structured parking for TODs where necessary to encourage redevelopment of surface lots.

H14. Explore opportunities to streamline permitting or to otherwise support efforts to meet regulatory requirements (e.g. storm-water management) for TOD projects.

H15. Develop tools to assist private sector partners in their efforts to attract conventional financing for TOD projects.

H16. State agencies should encourage transit-supportive policies, programs, and regulations by targeting state resources to the most transit-supportive areas and make surplus state-owned land adjacent to transit stations available for development only after a supportive framework is in place.

H17. MDOT should work with jurisdictions to coordinate enhanced MARC schedules with TOD, both within and outside of the Baltimore/Washington core.

H18. In Targeted Growth and Revitalization Areas, particularly Sustainable Communities, that have few transit opportunities, Subcabinet agencies should work with the local government to enhance pedestrian and bicycle activity and growth of alternative modes of transportation, including but not limited to increased bus service and car sharing, with incentives targeted to these communities.

H19. MDOT and WMATA should streamline the requests for proposals submittal requirements and processes for TOD development sites.

H20. Include the objective of fostering transit-oriented development and creating long-term real estate value into criteria for requests for proposals for transit construction projects.

End of Draft Recommendations