

# *Managing Maryland's Growth:*

Models and Guidelines

## Regulatory Streamlining

***This document may not reflect current law  
and practice and may be inconsistent  
with current regulations.***

The Maryland Economic Growth,  
Resource Protection, and Planning Act of 1992

Maryland Office of Planning

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# TABLE OF CONTENTS

INTRODUCTION .....	1
SECTION ONE: THE PLANNING ACT OF 1992 .....	3
A. <i>Overview</i> .....	3
B. <i>Regulatory Streamlining Under the Act</i> .....	4
C. <i>The Benefits of Streamlining</i> .....	5
SECTION TWO: REGULATORY STREAMLINING FOR LOCAL GOVERNMENT .....	7
A. <i>Impediments to Streamlining</i> .....	7
B. <i>Local Government Initiatives</i> .....	7
C. <i>Additional Streamlining Opportunities</i> .....	8
D. <i>Conclusion</i> .....	11
SECTION THREE: AMENDING THE COMPREHENSIVE PLAN .....	13
A. <i>Introduction</i> .....	13
B. <i>Goals and Objectives Element</i> .....	14
C. <i>Land Development Regulations (Implementation) Element</i> .....	14
D. <i>Additional Information</i> .....	17
SECTION FOUR: REGULATORY STREAMLINING AT THE STATE LEVEL .....	19
A. <i>Local Comprehensive Planning in the Context of State Regulatory         Authority</i> .....	20
B. <i>Conclusion</i> .....	23
APPENDIX A: LOCAL GOVERNMENT STREAMLINING EXAMPLES .....	25
A. <i>Procedural Techniques</i> .....	25
B. <i>Substantive Planning Techniques for Streamlining</i> .....	32
APPENDIX B: STATE AGENCY STREAMLINING EXAMPLES .....	37
A. <i>Maryland Department of Natural Resources</i> .....	37
B. <i>Maryland Department of the Environment</i> .....	41
C. <i>Maryland Department of Housing and Community         Development</i> .....	47

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# INTRODUCTION

This booklet is one in a series of Models and Guidelines intended to help local jurisdictions meet the challenges and pursue the opportunities in the Economic Growth, Resource Protection, and Planning Act of 1992 (the Act).

This booklet addresses the streamlining of land use regulations. Under the Act, streamlining is a theme for encouraging development and economic growth in Plan-designated areas, and for encouraging sensitive area and resource protection.

The Planning Act calls for streamlining techniques to be broadly applied. The Act also has a special focus on streamlining in growth areas. This focus recognizes that projects in these areas are desired and will likely be larger, more dense, and more complex than those in non-growth areas - and hence, in need of special attention given that numerous issues and government approvals are usually involved.

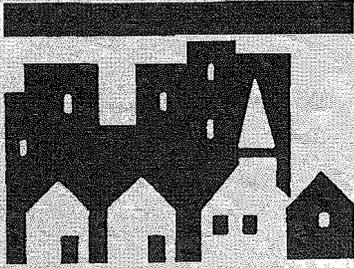
This booklet discusses various measures that can make implementation of Comprehensive Plans more efficient. It suggests approaches to public policy which recognize the private sector as an ally in achieving the Plan's recommendations for growth and protection.

Information is included that can be adapted or consulted as local jurisdictions amend Comprehensive Plans to comply with the Act. The booklet demonstrates how the Goals and the Implementation Elements of the Comprehensive Plan can be amended to incorporate streamlining requirements.

The booklet gives numerous examples of both procedural and substantive planning techniques that can be used to streamline the development process and channel growth to Plan-designated areas. It also summarizes efforts underway at the State level.

The subject of regulatory streamlining is of great interest to local and State government and to the private sector. This subject matter will be an on-going area of study by the State's Economic Growth, Resource Protection, and Planning Commission.





## A. Overview

# SECTION ONE: THE PLANNING ACT OF 1992

The Economic Growth, Resource Protection, and Planning Act of 1992 (the Act) directs local and State governments to streamline regulations to assure achievement of certain growth management and resource protection goals.

Regulatory streamlining is a prominent feature of the new Planning Act. Streamlining is one of seven growth management "visions" and is also required as part of the "Land Development Regulations" element of the local Comprehensive Plan.

The seven visions are a set of goals for encouraging economic activity in Plan-designated growth areas and for protecting rural and environmental resources.

The visions also comprise the State's Economic Growth, Resource Protection, and Planning Policy. The Act ties State funding decisions to consistency determinations involving the Policy and local Comprehensive Plans.

Following are relevant parts of the Act:

***The Visions.** " ... the [planning] commission shall implement the following visions through the plan ... (1) development is concentrated in suitable areas; (2) sensitive areas are protected; (3) in rural areas, growth is directed to existing population centers and resource areas are protected; (4) stewardship of the Chesapeake Bay and the land is a universal ethic; (5) conservation of resources, including a reduction in resource consumption, is practiced; (6) to encourage the achievement of paragraphs (1) through (5) of this subsection, economic growth is encouraged and regulatory mechanisms are streamlined; and (7) funding mechanisms are addressed to achieve these visions." (Codified at Section 3.06(b), Article 66B, Annotated Code of Maryland).*

Vision six is a guiding principle for achieving visions one through five: "to encourage the achievement of visions (1) through (5), economic growth is encouraged and **regulatory mechanisms are streamlined**" (emphasis added). Vision six advocates regulatory streamlining to encourage, facilitate, or at least make possible, the better built and natural environments and quality of life sought by the other visions.

**Land Development Regulations.** "[The plan shall contain] an element ... which encourages the following: 1) streamlined review of applications for development, including permit review and subdivision plat review within the areas designated for growth in the plan; 2) the use of flexible development regulations to promote innovative and cost-saving site design and protect the environment; and 3) economic development in areas designated for growth in the plan

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*through the use of innovative techniques.”* (Codified at Section 3.05(a)(1)(vi), Article 66B, Annotated Code of Maryland.)

The changes required to the local Plan’s “implementation element” evoke several possibilities for encouraging planned development, economic growth, and resource protection: *flexible development regulations; streamlined review of applications for development; and use of innovative techniques.*

Flexible, streamlined, and innovative qualities, however, are not necessarily mutually compatible. For example, sometimes innovative approaches require additional procedures and evidence to provide safeguards that will address their “untested” nature. Flexibility, as well, may often involve some additional procedure.

However, even where innovative and flexible approaches add to the approval process, these may well be thought of as streamlining if appropriate development proposals can be addressed short of a more cumbersome alternative process. For example, administrative waivers may require additional staff time, but an applicant would be relieved of a separate quasi-judicial proceeding for a variance at the local Board of Appeals. As the various authorities in the new Planning Act are implemented, streamlining should be a major policy consideration throughout the planning and implementation stages.

Taken together, the visions and amended Plan element should call for a different and better regulatory approach. Under the Act, the revised Plan should convey to the development community that, within the areas designated for growth, the policy is reasonable accommodation and facilitation, consistent with the sensitive area protection requirements of the Act.

## *B. Regulatory Streamlining Under the Act*

*Webster’s New Twentieth Century Dictionary* defines “streamlined” as something “...so arranged or fashioned as to secure the greatest progress and efficiency with the least delay and obstruction.”

Streamlining, in the context of the new Planning Act, has a substantive focus - one that goes beyond efficiency for its own sake. The Act specifically encourages streamlining within areas designated in the Plan for development and growth. The Plan should channel most development towards designated growth areas and rural population centers, while protecting sensitive and rural resources. Under the framework of the Act, the focus of streamlining activities will vary, depending on what the local Plan recommends as to future growth and land use.

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The development review process should guide government regulators to be flexible, to seek and permit alternatives, and to be innovative within planned growth areas - in short, to regulate so as to efficiently achieve the recommendations of the Comprehensive Plan.

Streamlining, however, does not mean that environmental protection or other public interests should be ignored. The goal of streamlining should be to capture growth and development in Plan-designated areas with reasonable environmental safeguards. In non-growth areas, project reviews should also be streamlined; but this does not mean that "growth" should have regulatory support. If a project is proposed which is inconsistent with the Comprehensive Plan, streamlining means that project denial should not be unduly delayed.

Achieving growth in suitable areas will result in efficient use of land and public infrastructure investment, and reduce development pressure in rural non-growth areas where resource protection should be paramount and where large ecosystems can be preserved in tact.

Streamlining in Plan-designated growth areas will best serve the precise purposes of the Act only as part of a larger effort to implement the visions. Areas designated as "suitable" for development and economic growth need to be defined as clearly as possible, and carefully sized to provide for projected population growth and other land demands. Existing rural population centers that will be the focus of rural growth and activity also need to be identified, and measures to protect sensitive areas and rural resources must be recommended.

The policy of regulatory streamlining is not a safe harbor for proposals that are inconsistent with the Act or the local Comprehensive Plan. On the other hand, the Act encourages an environment of lower risk and uncertainty under permit processes for development proposed in areas designated for development.

There are numerous examples in this booklet of local government procedures that increase administrative efficiency. There are also examples which more precisely reflect the Act's substantive focus on planned growth areas.

### *C. The Benefits of Streamlining*

The importance of streamlining has grown with the complexity of the development review and approval processes. Streamlining requires that agency evaluations and governmental approvals be conducted as efficiently and quickly as possible, consistent with the need to adequately examine relevant issues and protect the public interest.

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The importance of streamlining is also heightened by the need to channel growth and development away from rural areas and towards suitable areas designated in the Plan. Accomplishing this requires that more complex and larger-scale projects be handled expeditiously in growth areas, in spite of the numerous permits and government levels involved.

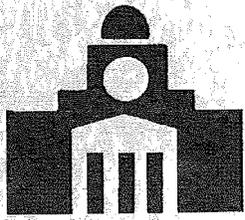
Streamlining in growth areas is beneficial not only to the developer but also to local government and ultimately, to the public.

Developers derive important benefits when accelerated reviews help bring projects on-line at the earliest possible time. Carrying costs, such as property taxes and interest on loans, are minimized. Moreover, when the potential for risk and delay are diminished, and a sense of reasonable predictability is achieved, the motivation to seek higher profit margins is avoided and growth is stimulated.

Government also benefits because there is a better chance of attracting commercial and industrial projects by minimizing the risk and uncertainty associated with long, involved approval processes. Also, streamlining results in more efficient and effective use of limited staff resources.

The public may benefit from regulatory streamlining as a result of more affordable housing which results from lower developer costs. There is also a potential for increased local job opportunities resulting from a friendlier atmosphere for business development and growth. A stronger business sector tax base reduces the need for additional personal taxes. Home owners will find it easier to obtain information and permits needed to build on their property.

One note of caution is that streamlining should not be used to eliminate public notice and opportunity for hearings. Due process must be preserved.



## A. Impediments to Streamlining

# SECTION TWO: REGULATORY STREAMLINING FOR LOCAL GOVERNMENT

A 1992 Montgomery County study, entitled *Streamlining Montgomery County's Development Authorization Process*, concluded that the following conditions interfere with the prompt and efficient examination of development proposals:

- Lack of consistent guidelines and standards for either applicants or reviewers;
- Duplication, inconsistencies, and conflicts both within and among agencies with no means of resolving them;
- Time-consuming consecutive reviews sequenced in a way that issues are re-examined rather than narrowed and resolved;
- Uncertainty and inconsistency in review times;
- Lack of effective automation, particularly when agencies are physically separated.

## B. Local Government Initiatives

Numerous local jurisdictions have enacted streamlining measures. Local governments continue to study ways of improving the development review and approval process.

Most streamlining improvements implemented to date are of the following basic types:

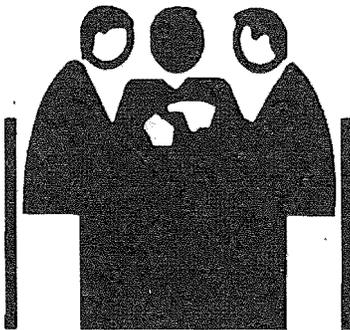
- One agency, such as planning or economic development, coordinates interagency reviews and keeps projects moving through the approval pipeline.
- Routine waivers and exemptions from development regulations are decided administratively rather than by Board of Appeals action.
- Simplified checklists and other easy-to-read guidelines are prepared to advise applicants about information they must provide and procedures they must follow in the review process.
- Pre-plan submittal conferences between agencies and developers are held to discuss development concepts, agency information requirements, procedure, and other development issues.
- Up-front developer costs or submittals are deferred for project phases that are not ready for construction.

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There are also more unique forms of streamlining that are being tested at the local government level. These include a "demonstration process" for intergovernmental and interagency streamlining, a "revitalization/streamlining program," and several county "fast-track" programs for economic development.

Appendix A contains specific examples that represent a menu of concepts; the appendix is not intended to be a complete list, but does reveal the wide range of choices available.

### *C. Additional Streamlining Opportunities*



**Intergovernmental Relationships.** In selecting streamlining methods, local governments should consider the nature and extent of development activity in the jurisdiction and whether intergovernmental complexities are likely to be involved. In some instances, rather simple adjustments may be adequate, in others, new concepts altogether may be warranted.

Local governments should address the topic of State and federal intergovernmental issues in their Plans and programs. This will help identify problems and create opportunities in the local Plan for strong State-local-federal growth management relationships.

Several State programs that affect local land use decisions now offer opportunities for streamlining and these methods should be part of the local planning process.

One example is the Street Tree Program, authorized in Plan-designated growth areas by recent amendments to the Forest Conservation Act. Another is the use of administrative variance procedures, as permitted by the Chesapeake Bay Critical Area Commission.

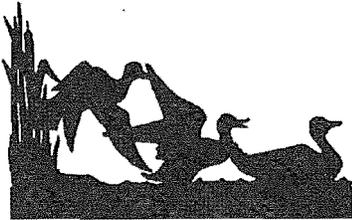
Local governments should work cooperatively with State agencies to determine means for certifying that projects are located in Plan-designated growth areas and thus appropriate for expedited review under State permit processes.

The following additional methods should facilitate permit processes at the State level:

**Preliminary Subdivision Plat Approval:** Local jurisdictions should require identification of regulated resources and required State permits early in the subdivision approval process. With prior identification of

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floodplains and nontidal wetlands, subdivision designers can avoid or minimize impacts to these resources when laying out lots. In certain cases, the direct consequence will be to eliminate the need for individual lot purchasers to obtain State permits, thus eliminating costs and saving time.



**Notification of State Permit Requirements:** Local jurisdictions need to advise developers and property owners earlier in the building permit process of the need to obtain State authorizations. Early notification can encourage owners to avoid regulated resources, thereby avoiding the time and costs involved in obtaining permits. In addition, projects with unavoidable impacts can be designed initially with minimization requirements in mind. This will avoid last minute design changes necessary to comply with State regulations.

**Mitigation Banking:** Each county could establish the goal of creating at least one nontidal wetlands mitigation bank for potential use by developers proposing projects in designated growth areas. Such banks would be designed to replace allowable nontidal wetlands impacts. At a minimum, counties should endeavor to identify areas of county-owned land that would make suitable mitigation sites for impacts associated with county development projects. The county's identification of mitigation sites and banks should be coordinated with municipal governments.

**Water Allocation Preauthorization:** In order to streamline the process for individual water appropriation permits, local jurisdictions and the State Water Resources Administration (WRA) can develop preauthorization agreements. In support of these agreements, in designated growth areas local jurisdictions should conduct hydrogeologic studies and aquifer testing, calculate water balance, identify flow boundaries, identify key water supply issues, and conduct public informational hearings in cooperation with WRA. Limitations on supply can be identified prior to significant investment in development planning. Where growth may be limited due to inadequate supply, the State agency will work with local jurisdictions to determine alternate water sources in advance of demand.

**Water Conservation:** Local jurisdictions should develop water conservation programs for designated growth areas, including leak detection, low water use landscaping, metering, water conserving rate structures, and drought response plans. This information would be a key consideration in the Water Allocation Preauthorization agreements described above. WRA can provide guidance during program development.

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**Apply Planning Concepts with Streamlining in Mind.** Local governments can also address streamlining through substantive planning techniques. For example, clear delineations of suitable growth areas and rural population centers in the Comprehensive Plan will speed up consistency determinations.

Advanced or automated mapping for designated sensitive areas and rural resource areas will speed up environmental reviews.

Needed, but "locally unwanted land uses" (e.g., landfills, gravel mines, and local correctional facilities) should be given more attention in the comprehensive planning process to assure suitable sites, land use compatibility, community protection, and quicker project approval.

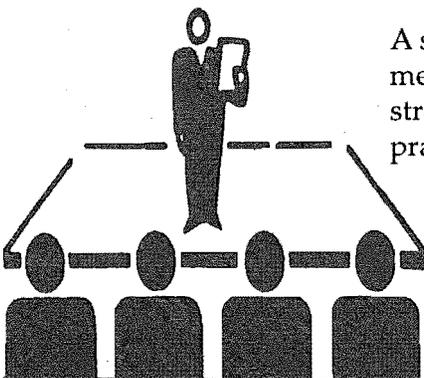
Methods to facilitate regulatory approvals for economic growth and community revitalization, in-fill development, and affordable housing should be discussed in the Plan.

Citizen and interest group participation in comprehensive planning and zoning initiatives should be encouraged as early as possible in the process. The implications of the Plan and zoning map should be thoroughly examined and debated. The effort should aim to eliminate or reduce the adversarial and time-consuming nature of project approvals which merely implement the Plan.

Since Maryland law on rezoning actions focusses on "change" occurring since the date of adoption of the current comprehensive zoning map, the zoning map should be periodically reviewed and readopted to reduce pressure for unwarranted and time-consuming piecemeal rezoning applications. Deciding rezoning petitions on a cyclical, as opposed to a routine, basis may provide some efficiencies.

Conflicting and inflexible regulations, particularly in growth areas, should be resolved.

A standing committee or task force should provide findings and recommendations to the planning commission and elected officials about streamlining issues and the strengths and weaknesses of streamlining practices.



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## *D. Conclusion*

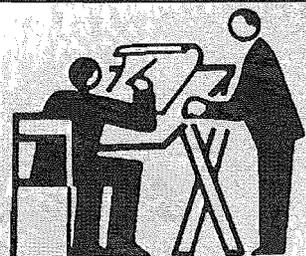
The success of these and other innovations in streamlining depends heavily on the involved agencies and their staff.

- Staff must interact more closely, exhibiting strong conflict-resolution and other interpersonal skills to transcend disciplinary barriers and to develop congruent positions on often-complex projects.
- Staff must conduct thorough examinations by specific deadlines, putting a premium on performance.
- Managers and staff must make informed decisions in areas once reserved for deliberative bodies such as boards of appeals.

However, applicants also determine the success of these efforts. Much depends on timely submittal of complete information needed to review development proposals. This will eliminate the need for agencies to raise new questions or make repeated and unexpected requests for additional data later in the review process when the applicant expects a decision.

The applicant's reward for meeting the evaluating agencies' needs at the outset is not only a shorter review period, but also more certainty in review time by the elimination of unexpected delays. Many developers find the latter to be as important as the former.





## A. Introduction

# SECTION THREE: AMENDING THE COMPREHENSIVE PLAN

The new Planning Act specifically calls for the **Implementation Element** of the local Comprehensive Plan to include the Planning Commission's recommendations for regulatory streamlining within areas designated for growth. It also seems prudent that the **Goals and Objectives Element**, which defines the Plan's broad sweep, should include a reference to streamlining as a way of achieving the Plan's recommendations and the visions.

The Plan's **Land Use Element**, which discusses the salient land use and development issues facing the jurisdiction, and recommends the optimal future land use pattern and staging measures, should be reviewed as part of the process to incorporate streamlining. This will reveal geographic areas as well as types of development projects that might benefit from a specially-tailored streamlining process or particular method. Carefully sized and clearly delineated growth areas and rural population centers will help define where streamlining for growth should be focussed.

The **Economic Development Element** is also an important part of the Plan that needs review, and possibly warrants revision to incorporate streamlining. This element, which sets forth a strategy for economic activity and growth, should be scrutinized for ways the Plan can work cooperatively with business and industry. This element should sell the message of reasonable accommodation and facilitation for growth in Plan-designated areas, and anticipate the need for special interagency and even interjurisdictional forums which can be used to streamline multiple permit reviews.

The concept of streamlining should extend beyond local regulations. The Plan should include findings and recommendations as to how streamlining can also be incorporated into the intergovernmental relationships which arise in the development approval process. For example, the Plan can recommend that the jurisdiction participate in the Army Corps of Engineers consolidated permit process; develop street tree programs - in lieu of the standard Forest Conservation Program - for growth areas; and plan for the use of growth allocation in the Chesapeake Bay Critical Area.

In summary, the Plan should discuss the purposes and benefits of streamlining; identify problem areas in the approval process which interfere with development, growth, and protection; and recommend corrective measures and on-going monitoring.

The following sections offer model language for incorporating streamlining policies into the **Goals and Objectives** and **Implementation Elements**.

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*B. Goals and Objectives Element*

Streamlining may be included as an objective subordinated to a broader goal.

**Goal:** To encourage development and economic growth in areas designated for growth in the plan.

**Objective:** To achieve the greatest efficiency and progress and the least delay and obstruction in the review and approval of development projects, consistent with the protection of sensitive areas and other public interests.

Or, streamlining could be a goal in its own right with supporting objectives.

**Goal:** To streamline the review and approval of development projects in areas designated for growth in the plan, consistent with the protection of sensitive areas and other public interests.

**Objectives:** To identify impediments to the efficient and timely approval of development projects.

To develop strategies and procedures to address these impediments.

To amend ordinances, regulations, and procedures as necessary to integrate these proposed measures into the project review and approval process.

*C. Land Development Regulations (Implementation) Element*

This element of the Plan should be reviewed with the goal of eliminating duplicative, conflicting, inflexible, vague, or outdated language in the zoning ordinance, subdivision regulations, and other local land use laws. The goal should also be to make these documents more understandable. Simpler, easier-to-read ordinances will save applicants time. These will also save staff time because there will be fewer questions and fewer erroneous submittals.

In preparing the streamlining portions of the comprehensive plan, the local jurisdiction's staff must examine the manner in which development plans and plats are reviewed and approved so that major issues and problems for future study can be identified.

A thorough study should include representatives of all local, State and, if possible, federal agencies involved in reviewing and approving plans and

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plats. Representatives of the development and business community should also be involved.

Following is an example of how streamlining might be discussed in the Implementation Element, illustrating typical problem areas that exist in the development approval process, along with some recommendations for addressing these.

## Model Language

*The development review and approval process is becoming increasingly complex and time-consuming.*

*This complexity has contributed to inefficiencies which hinder timely approval of many beneficial and planned commercial, industrial, and residential projects.*

*Some of these inefficiencies are (local evaluations will determine this list):*

- *Excessive review times;*
- *Lack of consistent development guidelines and standards for both applicants and reviewers;*
- *Duplicative agency reviews;*
- *Lack of overall coordination in the review process; and*
- *Contradictory and unnecessarily inflexible regulations.*

*These conditions have created unnecessary costs for developers, inefficient use of staff time, and disincentives for commercial and industrial concerns that may wish to locate in the jurisdiction. This results in the loss of tax base, and ultimately, higher costs to the public for housing, goods, and services.*

*Accordingly, this Plan recommends an examination and if necessary, the adoption by July 1, 1997, of measures to streamline the development review and approval processes. Such measures may include:*

- *Establishing reasonable time limits to speed reviews and reduce uncertainty;*
- *Conducting concurrent agency reviews whenever possible;*
- *Formulating clear and consistent development standards;*

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- Designating one lead agency to resolve differences among reviewers when the review responsibilities are shared;
  - Establishing procedural changes that reduce overlap and gaps in procedures;
  - Identifying intergovernmental obstacles or impediments to streamlining;
  - Preparing manuals, guidelines, and ordinances to codify these and other streamlining methods;
  - Eliminating conflicting and inflexible regulations; and
  - Identifying measures to create community acceptance of the Comprehensive Plan and to promote early and effective means for citizen, business, and landowner participation in the planning and development approval processes.

The planning department should coordinate an effort to examine the feasibility of these proposals and report its findings to the planning commission. Representatives of all local, State, and federal agencies involved in reviewing and approving development projects should be included.

The planning commission should periodically monitor the development approval processes to ensure that these continue to be conducted as quickly and efficiently as possible. From time to time, the commission may find it necessary to recommend changes to ordinances or officially adopted policies. All such proposed changes should be submitted to the [local legislative body] following public notice and hearing by the commission.

Planning tools, zoning, subdivision, and other land use regulations should be evaluated for feasible means to promote streamlining. The following should be included:.

- **Planning.** Review the Plan to assure that growth areas, rural population centers, sensitive areas, and rural resource areas are clearly identified and described in terms of land use policy and recommendations.
- **Zoning.** Review zoning cases (rezonings, special exceptions, and variances) to determine the prevalence of recurring and unnecessary impediments to accomplishing the growth management and environmental goals of the Plan.

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*Identify possible solutions to impediments, including the following: use carefully tailored floating and overlay zones to accomplish Plan-designated growth, sensitive areas protection, and resource conservation; revise lists of special exceptions to more closely adhere to the intent of the Plan and the zoning district; if authorized by statute, use administrative waivers in lieu of variances; use planned unit and density control zoning with flexible yard and bulk standards so as to eliminate or reduce the need for regulatory variances in growth areas and to increase opportunity for sensitive areas protection on developing sites.*

- **Subdivision Regulations.** *Combine the concept and preliminary or preliminary and final plat stages in the subdivision approval process under specified circumstances.*

*Require all subdivision plats and site plans to be presented to a planning department intake person who shall ensure all required information is included before accepting them as formal submittals.*

*Designate a planning department project officer to coordinate all reviews and approvals associated with a particular development project.*

- **Fast Tracking for Economic Growth.** *Examine methods and develop criteria by which reviews and approvals needed for economic development projects in planned growth areas can be accelerated.*
- **Intergovernmental Coordination.** *Investigate the suitability of the "Street Tree Program" for growth areas under the Forest Conservation Act.*

*Explore forms of strategic planning at the local level that can help streamline federal and State permit processes. For example, creation of a wetland mitigation banking program might be used for development in growth areas as part of State permit processes; and participation in the U.S. Army Corps of Engineers consolidated permit review process can speed up project reviews and approvals.*

## ***D. Additional Information***

For more ideas about streamlining (i.e., study methods, research, comprehensive planning, and solutions), readers may want to contact the following jurisdictions for information about recently completed and on-going studies:

Montgomery County (*Policy Level Report: Streamlining Montgomery County's Development Authorization Process, April 15, 1992, the Development Review Steering Committee*).

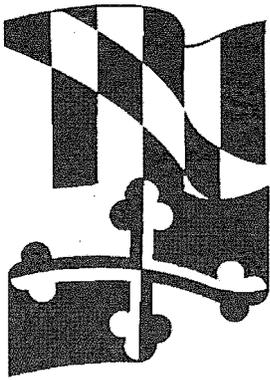
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Anne Arundel County (*Permit Improvement Action Plan, March 27, 1989*).

Calvert County (*Streamlining the Calvert County Development Approval Process, August, 1993*).

Frederick County and Frederick City (work underway by the *Commission on Regulatory Response*).

Baltimore City (*Findings of the Mayor's Economic Incentives Task Force, due in 1994*).



## SECTION FOUR: REGULATORY STREAMLINING AT THE STATE LEVEL

Local government land use decisions often require additional layers of decisions before development can occur. This usually takes the form of a State or federal regulatory permit, approval of a functional plan amendment, or some type of funding action. This Section discusses the streamlining of certain State and local relationships in the development approval process. It is based on input received from local jurisdictions and is intended as an initial discussion of the issue in the context of the new Planning Act. Most of the local government interest is currently focussed on State regulatory programs which address natural resources protection.

Appendix B contains a detailed list of recent streamlining initiatives undertaken by certain State agencies which impact the local government development approval process. Included are examples provided by the Departments of Natural Resources, Environment, and Housing and Community Development.

The Department of Natural Resources (DNR) administers three programs that are directly involved with regulation of development: the Forest and Park Service; the Chesapeake Bay Critical Area Commission; and the Water Resources Administration (WRA). The Forest and Park Service administers the State's forest conservation programs. The Critical Area Commission implements and approves programs for planning and protection of the Chesapeake Bay Critical Area. WRA's permit programs address nontidal wetlands and waterways, nontidal floodplains, tidal wetlands, groundwater and surface water resources, the safety of dams, and coal and non-coal mineral resources.

Programs at the Maryland Department of the Environment (MDE) which regulate development activities are principally located within the Water Management Administration. Key activities include discharge permitting under the NPDES (National Pollutant Discharge Elimination System), State groundwater discharge permits, water and sewer construction permits and plan approvals, water quality certifications, well construction and on-site sewage disposal permits, subdivision approvals, storm-water management and sediment and erosion control. Included in these activities are various functions associated with the Department's financial programs for funding of infrastructure improvement (e.g., water, sewer, and non-point source pollution). The Chesapeake Bay and Watershed Management Administration establishes many of the plans and broader policies (e.g., tributary strategies) which establish mechanisms for balancing and interrelating regulatory controls so as to achieve the broader goal of watershed restoration and improving the Chesapeake Bay. In addition, the Air and Radiation Management Administration (ARMA) and the

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## A. Local Comprehensive Planning in the Context of State Regulatory Authority

Waste Management Administration (WAS) issue permits and approvals which directly impact industry. The WAS also regulates municipal landfills and rubble fills which have significant impacts on development and growth management issues.

The Department of Housing and Community Development administers programs for historic protection, building codes, community development, and housing.

When local governments were asked about State and local relationships in the area of planning and development, the most frequently cited issues involved aspects of State wetland regulation, the Chesapeake Bay Critical Area Law, and the Forest Conservation Act. These three State programs have a direct and sometimes pervasive impact on land use decision-making, an area of law traditionally delegated to counties and municipalities. There were also general concerns expressed about intergovernmental coordination.

It is noteworthy that several program alternatives have been or will be developed by the State to address some of the concerns from local jurisdictions. Some issues require legislative as opposed to regulatory changes thus making these more difficult to address. The following comments about State streamlining were articulated by local governments and are featured in this booklet to provide ideas for additional streamlining methods.

### **Develop A Unified State Position**

*Comment: State agencies sometimes take conflicting or inconsistent positions with regard to particular development proposals. There should be an effective mechanism at the State level to coordinate the comments and decisions of the various State agencies that may be involved in the review and approval of a specific development proposal.*

This suggestion reflects the concept embodied in Anne Arundel County's Demonstration Process (see Appendix A of this booklet). In that Process, multiple agencies from various levels of government work concurrently to review a project in a coordinated and timely fashion.

In the late-1970's to early-1980's, the State had a permits coordinator office, charged with holding consolidated federal, State, and local permit hearings for applicants that chose to use the office. As a result of inactiv-

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ity, however, the office was dismantled. One can speculate that, in those times, the regulatory process was much simpler and thus applicants had little incentive to avail themselves of the office's services. However, the need for a coordinated State position with respect to major development projects is needed in today's complex regulatory climate, particularly with increased State involvement.

However, there may be inadequate staffing at certain State agencies to expand the Demonstration Process to other jurisdictions. The Process, if ultimately shown to have substantial merit, may warrant consideration in the context of future State agency staffing objectives and missions.

**Incorporate the Visions in Decision-Making.**

*Comment: State programs are administered as narrow or single purpose tools, with inadequate relevance to the visions or to Plan-designated growth and development.*

The Forest Conservation Act was cited on several occasions as having unnecessary impediments to streamlining and achieving growth management visions. Afforestation (that is, the planting of trees where none have existed for some time) in growth areas was one specific concern. However, recent amendments to the Forest Conservation Act for a "street tree" option may provide relief. Also, a Task Force has been established to recommend ways to simplify some of the regulatory requirements. Guidelines have been proposed for simplified Forest Stand Delineations and Forest Conservation Plans. In addition, long-range projects would be able to meet forest conservation requirements as each phase of the project is activated.

Similar concerns were expressed about wetland regulations. These regulations are based on federal law and continue to receive debate in numerous forums. The State streamlining activities listed in Appendix B indicate that several measures have been accomplished and others are planned to address wetland regulation. In terms of federal permits and actions related to wetlands, the Army Corps of Engineers may conduct a "consolidated permit" process where State, local, and federal regulatory officials meet with applicants to accomplish steps in the wetlands permit process.

There are meaningful changes at the State level in terms of streamlining, but local governments believe that more can and should be done.

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A major re-orientation of State programs away from narrower missions and towards growth management objectives would likely require legislative changes. Each agency has a statutory mission that imposes a set of priorities, perspectives, and duties. While the meaning of the visions in a growth management/land use context has been articulated by the State (see Maryland Office of Planning Publication No. 93-02, *Procedures for State Project Review Under the Planning Act of 1992*), identifying the full means by which each agency can support the policy requires continued work.

**Simplify State Oversight of the Chesapeake Bay Critical Area Law**

*Comment: "Critical Area" oversight should be brought in line with other State-mandated programs which rely on periodic reviews of locally developed and administered programs, rather than project-by-project oversight and involvement in local decision-making.*

Local jurisdictions favor the approach for State oversight taken for Stormwater Management, Floodplain Management, Sediment Control, and Forest Conservation Programs. These Programs require a periodic performance review by the State. The Critical Area law, on the other hand, involves additional procedures in certain cases before an appointed Commission.

Specific concerns were cited about Critical Area growth allocation, program enforcement, and procedural issues. For the most part, the specific issues were complex and involved both law and regulation.

State Critical Area regulations (the "Criteria") required full General Assembly approval, as opposed to being handled solely by the General Assembly's Administrative, Executive, and Legislative Review Committee. This unusual circumstance may make it more difficult to amend the "regulations" than is typically the case.

Appendix B contains examples of streamlining for projects in the Critical Area. The Critical Area Commission is reviewing the new Planning Act to identify growth management issues that need to be addressed through its actions, including opportunities for additional regulatory streamlining.

**Reduce the Burden of "Alternatives Analyses" for Permits**

*Comment: The alternatives analyses required for water resources permits is an*

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*unnecessary burden for Plan-designated development. This requirement should be eliminated in Plan-designated growth areas, while mitigation options are increased.*

Alternatives analyses are required for certain water resources permits. The requirement involves demonstrating that some less "sensitive" alternative site is not viable for the project. The suggestion is that, within growth areas, the alternatives analyses should be eliminated, in favor of stronger mitigation. Appendix B discusses activity underway at the Department of Natural Resources related to the alternatives analyses requirement. While not a complete response to local concerns, it will, if implemented, greatly limit the scope, and hence the burden, of the analyses.

## *B. Conclusion*

The challenge often heard was "we [the local governments] are doing much already; what is the State going to do?" For the most part, the question usually concerns development and growth that implements the local Plan. Many county and municipal officials have readily established administrative procedures that guide the actions of its own agencies towards a policy of protection, accommodation, or facilitation for certain types of projects, as well as for certain geographic areas.

Under the new Planning Act State agencies should alter the exercise of mission-oriented (i.e., narrowly focussed) regulations towards a similar policy of streamlining. State support of growth and development, consistent with local planning which meets the seven visions, is an important objective of the Planning Act.

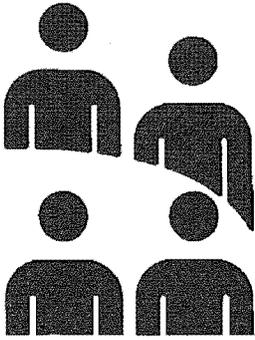
State streamlining which supports local Plans is more likely to occur if State agencies agree with local Plans, and agree with how those local Plans mesh with State policy. Achieving mutual State-local consensus as to the meaning and purpose of the visions in the new Planning Act is thus very critical if State streamlining is to effectively support local land use planning.

The streamlining process envisioned by the new Planning Act at the State level is challenging. While it may be an oversimplified description, agencies would, in essence, give up their pure mission orientations in exchange for a "land use" or "growth management" perspective. There are interagency mechanisms in place in State government that are exploring and implementing ways of incorporating the visions programmati-

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cally. These include the Economic Growth, Resource Protection, and Planning Commission; its four standing Subcommittees; a Cabinet Inter-agency Committee on Growth; and a Technical Support Group to assist that Committee.

Appendix B contains streamlining activities accomplished and planned by various State agencies. There are several examples that can have positive impacts on time involved in the regulatory process.



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## APPENDIX A: LOCAL GOVERNMENT STREAMLINING EXAMPLES

Following are specific examples of local government streamlining methods. These examples do not necessarily show the full array of jurisdictions that may practice these techniques, but rather reflect input received from jurisdictions as a result of telephone inquiries, written requests, and interviews. Even as this booklet was being prepared, local governments continued to work on streamlining issues; much has been accomplished. The methods are organized into "procedural" and "substantive" examples: the former focussing mostly on speeding up the process, the latter having special applicability in Plan-designated growth areas.

### *A. Procedural Techniques*

**Method: Assign clear areas of responsibility and designate a lead agency to guide the application through the process and resolve inter-agency conflicts.**

- **Baltimore County** - One project officer from the Office of Zoning Administration and Development Management guides each plan and plat through all approval phases including coordinating inter-agency work sessions to comment on and amend plans, conducting public hearings, bringing final approval proceedings before the Hearing Officer, and reviewing post-approval plans such as landscaping and sediment control. This approach provides a centralized, accountable focal point for all review and approval functions.
- **Montgomery County** - Review responsibilities for environmental factors such as stormwater management and steep slope and forest protection are split between the Department of Environmental Protection's Division of Water Resources Management and the Maryland-National Capital Park and Planning Commission's Environmental Planning Division. Each is designated lead agency for its assigned portions of the environmental review and approval process, working with other environmental review staff to keep plats and site plans moving through the approval pipeline and resolving differences with other agencies through consultations. Because staffs work cooperatively, the agencies themselves can resolve differences and problems. Applicants are no longer faced with conflicting reviews from different agencies. The County Planning Board decides issues on which agencies cannot agree.
- **Rockville** - The Department of Community Development acts as overall coordinator in development reviews, bringing other agencies together to resolve difficulties.

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**Method: Distribute clearly written, current, and consistent development standards, guidelines, and submission requirements, including sample forms, diagrams, and agency contacts.**

- **Baltimore County** - The County uses a "check print" process that precedes preliminary plat approval as a means of assuring that submitted plats will contain all needed information.
- **Charles County** - A clearly-written booklet explains what procedures an applicant must follow to obtain the needed permit. The booklet also explains "same day" permit service for routine residential projects such as decks, porches and garages.
- **Hagerstown** - The City recently published a series of checklists detailing, in simple form, all information developers must include with their site plans and plats to satisfy planning, zoning, soil conservation, utility company and other review requirements. These lists have reduced requests for additional information and resulted in as much as a one-third reduction in review times.
- **St. Mary's County** - The County distributes "Customer Assistance Guide" checklists to applicants. The checklist guides the applicant through the informational and procedural requirements needed to obtain a proper and timely review of development proposals. Also included is a step-by-step description of the approval process.

**Method: Conduct successive reviews so as to eliminate uncertainty or reversals.**

This process is intended to make it unlikely that decisions made in the plan or plat approval process will be reversed later. The project also moves to approval without raising untimely additional issues and problems that cost the applicant extra money and time to address. These methods do not ignore important information or issues that might arise. However, they do eliminate indecision and equivocation. The methods place an incentive on staff attentiveness and reasonable limitations on staff debate.

- **Anne Arundel County** - The Planning and Code Enforcement Department, which coordinates subdivision and site plan reviews, requires all agency comments to be submitted a week before the interagency meeting with the applicant. At that meeting, staff discuss and resolve the questions arising from these comments.

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Reviewing agencies are strongly urged not to submit further comments or questions about a project after the meeting unless an unforeseen major deficiency is discovered. If the applicant submits a revised site plan or plat, agencies may raise questions only as to the revisions. The County is revising its subdivision regulations to include these policies.

- **Prince George's County** - All reviewing agencies submit comments on site plans and subdivision plats to the Development Review Division, suggesting changes and posing questions. These agencies review subsequent resubmittals to ensure that issues are resolved. However, both review time and uncertainty are reduced because agencies are discouraged from initiating a new round of questions or requests of the applicant.

**Method: Conduct coordinated and concurrent interagency reviews where feasible.**

- **Anne Arundel County** - The County noted that traffic and environmental reviews involve both County and State agencies, and that the State often raised issues after the County had approved a project. Now, both the County traffic section and State Highway Administration review proposed developments simultaneously and interact frequently to resolve questions and disagreements so that they present a united position at the interagency meeting on the project. The County and State Department of Natural Resources interact similarly on environmental reviews. These streamlining improvements have reduced processing times by months in some instances. (Note: This process may not be feasible in locations that are distant from State offices.)
- **Hagerstown** - Formerly, each of the City's three engineers reviewed and commented on the entire plan or plat. Under new guidelines, the three do concurrent reviews, with each specializing in certain areas such as stormwater management and water/sewerage infrastructure. This cuts application processing time by reducing duplicative reviews.

**Method: Revise procedures to promote administrative efficiency.**

- **Anne Arundel County** - The County initiated steps to ensure that plats and site plans are submitted with all information needed to

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conduct the necessary reviews and approvals. Applicants must make an appointment with a Planning and Code Enforcement Department intake person who examines each submittal for completeness.

The County developed several other procedures to save staff time. It devised a standardized record plat format in which all notes and other information must appear in assigned areas on the plat sheet. Reviewers can more quickly and accurately check the document to ensure that required components are present.

Additionally, staff now provide written communication to applicants only on major issues or denials. Minor comments are hand written directly on the plat or site plan. This dramatically reduces the length of letters which typically ran seven to eight pages under the old procedure. Applicants must highlight any changes or corrections on their revised plats and plans so staff can quickly identify and review them.

In Anne Arundel County, the Soil Conservation Service (SCS) formerly issued grading permits after reviewing the County-approved final subdivision plat, a practice that sometimes resulted in the need to revise the plat and gain subsequent reapproval. The SCS now reviews plats prior to the County's subdivision approval so issues can be resolved and the grading permit obtained without having to repeat steps. This revised procedure sometimes saves one to two months, plus the expense of revising the record plat.

The County planning director can waive roughly 60 requirements of the subdivision regulations under certain circumstances. All waivers formerly required a written request and interagency reviews and meetings. Such formal waiver requests are now required on only a handful of major issues, with the individual reviewer deciding the rest administratively. Administrative approval of such waiver requests for a particular plat saves roughly three months in review time.

- **Baltimore County** - County staff formerly conducted title searches for properties on which it was conducting development reviews. It now requires the developer to perform and certify these searches. This saves both staff time and several weeks in the processing of development reviews.

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The County Development Review Committee, consisting of the Office of Zoning and Development Management, Department of Environmental Protection and Resource Management, and Public Works, grants exemptions from some of the requirements of the development regulations for certain types of routine project.

The community input meeting and Hearing Officer proceeding which are required for larger projects are waived for minor subdivisions (three or fewer lots). These steps are also waived for amendments to an approved plan which do not materially alter the development as originally approved. This saves as much as a year in the approval of such minor projects. Smaller projects constitute more than half of the development requests submitted.

- **Cecil County** - The County provides for administrative review of minor subdivisions (up to five lots).
- **Howard County** - Routine proposed stream crossings by roads and utilities no longer require a special waiver from the subdivision regulations before being evaluated as part of the development plan. If deemed necessary (or unavoidable) by the planning director, the waiver procedure is dropped and the crossings are treated strictly as part of the plan itself. (Note: This process does not eliminate requirements for State permits.)
- **Hagerstown** - The City reduced agency review requirements for "simplified plats," which include such routine actions as resubdivision of developed lots for the purpose of sale, and instances in which a property owner is adding land to create a larger lot. The same reduction in review is allowed on site plans in which the total disturbed area is less than 2500 square feet.

Only six-to-seven City agencies review simplified plats and small-area site plans, instead of the usual seventeen. This represents a major reduction in review activity since 40-to-55 of the City's annual average of 120 plats now come under reduced requirements of the simplified plat review procedures. The City planning director approves these plats and plans; these do not have to go before the Planning Commission.

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**Method: Assure certainty of review periods.**

- **Baltimore County** - The County's plat/plan review process imposes deadlines on staff and the applicant for completing various stages, with the goal of allowing no more than 120 days to complete all work items involved in approving the concept and development plans.
- **Howard County** - On development applications, time limits are established for County staff and developers to respond to each other's questions or requests for information. If the County fails to meet a deadline, the application is considered approved. Applications are disapproved for developers failing to meet a deadline and they must then return to the first step of the process.
- **Rockville** - The City's Department of Community Development, which coordinates interdepartmental reviews, strongly encourages reviewing agencies to provide their comments on subdivisions and site plans within ten working days.

**Method: Where feasible, use automation to track projects.**

- **Anne Arundel County** - The Planning and Code Enforcement Office maintains a central computerized system that tracks all projects in terms of where they are in the system, deadlines, and other information.
- **Montgomery County** - Each agency has computerized capacity to track and determine the status of all applications under its review. Agency information systems may eventually be combined to create a tracking system that would give the overall status of project reviews among the various agencies.
- **Washington County** - The County uses a computerized data base to track the status of permit reviews and to keep projects moving through the process by identifying project milestones and road-blocks. The data base is integrated with its geographic information mapping system so that approved projects are automatically registered with the mapping system.

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**Method: Revise the zoning ordinance to provide for flexibility, and if authorized by statute, use a carefully crafted administrative variance procedure to reduce the frequency of hearings for routine and minor requests that normally require Board of Appeals action.**

- **Cecil County** - The County Planning Commission may approve modifications to the requirements of the subdivision regulations and zoning ordinance during the subdivision process. This includes setbacks, frontages, and buffers. Such relief is reserved for the interiors of proposed development where potential conflicts with adjoining properties are minimal.
- **Howard County** - Minor variances are now heard and decided by a senior County planner rather than by Board of Appeals action, saving developers four-to-six months. The County planning agency can grant as much as a twenty percent variance to certain regulatory dimensional standards.

**Method: Make organizational improvements to streamline operating efficiency in the review process.**

- **Anne Arundel County** - The County recently consolidated, both procedurally and physically, five major plan/plat review functions under the Planning and Code Enforcement Department. This administrative and physical consolidation has made "one-stop shopping" for reviews possible and facilitated staff interaction and coordination.
- **St. Mary's County** - The County recently merged the inspections and enforcement and the development review and permits divisions of the Department of Planning and Zoning into a new Development Services Division. The reorganization consolidates subdivision and site plan review, and more effectively uses environmental staff. This should result in more efficient project processing and administration of regulations.
- **Rockville** - The City has lessened review times on site plans and subdivision plats by combining its planning, economic development and permits (e.g., electrical, plumbing, building, and occupancy) into the Department of Community Development.

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**Method: Create an ongoing framework and effort to maintain an effective system.**

- **Montgomery County** - County staff continually monitor the effectiveness of its development review procedures and report its findings to the County Council.
- **St. Mary's County** - The County is committed to periodic assessment of its recent reorganization to assure the success of its regulatory streamlining program.

## *B. Substantive Planning Techniques for Streamlining*

For the purpose of this booklet, "substantive streamlining" is defined as a method that is dedicated to facilitating and accommodating growth and development in Plan-designated growth areas. The following outlines efforts undertaken by several Maryland counties and municipalities.

**Method: Fast-track economic development projects in growth areas.**

- **Harford County** - The County's licensing and permits agency administers a fast-track system for approving commercial and industrial developments in designated growth areas. The agency keeps projects moving steadily toward approval by eliminating bottlenecks and resolving disputes. In 1992, the County cut the average project approval time in half. The system requires that the County Executive establish priorities and projects for the fast track program. The system calls for a different approach by staff reviewers and decision-makers. In growth areas, staff are encouraged to seek solutions to accommodate growth, rather than create road-blocks to it.
- **Prince George's County** - The Economic Development Commission invokes a fast-track system for the approval of industrial or commercial developments in growth areas which would produce a certain number of jobs, tax revenue, and other benefits in accordance with County performance standards. Such projects are marked with a red cover letter which advises reviewing agencies to place such projects ahead of others, giving them the highest priority for review. Assigning such priority produces significant streamlining, especially in a jurisdiction that processes numerous and complex projects and relies on sequential reviews.

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- **Cecil County** - The County Office of Planning and Zoning, in conjunction with the Office of Economic Development, has instituted a fast-track process. It applies to site plan review of large industrial and commercial projects located in growth areas of the County which have adequate infrastructure. Eligible projects must meet certain criteria for number of employees, expansion potential, real estate assessment, and so on.
  - **Carroll County** - The County has a "FasTrack" system which permits accelerated reviews of commercial and industrial projects which yield a minimum of ten full-time positions having a minimum average annual salary of \$17,500 per position.

**Method: Revise the zoning ordinance and other development regulations so that unnecessary impediments to Plan-designated growth are systematically eliminated and flexible means of granting relief are introduced.**

- **Cecil County** - The County's required 110-foot buffer along perennial streams may be waived for development in the Development District of the Comprehensive Plan where the applicant can prove equivalent or better water quality protection through alternative measures. (The 100-foot Buffer regulations in the Chesapeake Bay Critical Area still applies, as do State and federal permit requirements.)

The County recently streamlined the granting of Critical Area Growth Allocation for certain projects located in the Chesapeake Bay Critical Area portion of the County's Development District. Eligible sites are existing Limited Development Areas which would require growth allocation to permit Intensive Development Areas. Eligible projects would include commercial, institutional, industrial, and intensive recreational uses.

The County is also considering using an administrative review (as opposed to Planning Commission review) for final subdivision plats for certain projects located in County growth areas. The County notes, however, that this concept may require an amendment to Article 66B, the State's Planning and Zoning Enabling Law.

- **Prince George's County** - The County plans to use flexible and streamlined planning and regulatory approaches within designated

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inner-beltway corridor communities. The County may eventually expand these tools to other Plan-designated growth areas.

The process includes two new zoning options to aid in revitalization - the Mixed Use Town Center (MXTC) and Urban Light Industrial (ULI) zones. The MXTC targets older urban centers that have fairly compact and unique community centers. The permitted uses are wide-ranging, but do not include commercial or industrial uses that have adverse impacts on community character. The ULI zone is targeted to old inner beltway industrial areas.

These zones provide options that have far fewer regulatory standards. Instead, the zones use development guidelines tied to community character and need as defined in an optional concept plan approval process. The process includes full community involvement and requires Planning Board approval of a development plan, which essentially defines and controls the proposed development. These options replace rigid zoning with a negotiated process that has fuller community input.

The program also includes the recently-created Neighborhood Conservation and Revitalization Division. The Division is a team comprised of various County agencies that are involved in permit and project reviews. The process benefits from having in-house experts work together on specific projects and revitalization plans. Staff level decision-making authority has been increased, so as to reduce project approval time. The new Division works with the business community, serving as a satellite office of County government. It acts as a clearinghouse for contacts, site availability, and business needs.

The County hopes that the flexible zoning options, along with prompt turn-around times, will give the development community the predictability and certainty it needs for investing in the redevelopment of older communities and industrial areas.

- **Hagerstown** - The City instituted a grandfather clause for existing non-conforming lots situated in a developed area. The grandfather clause permits development without the need for Board of Appeals action.
- **Salisbury** - Variances are a major issue in downtown areas where irregular lots, often recorded prior to the advent of zoning, conflict

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with zoning codes and thus can require numerous time-consuming hearings at the Board of Appeals. To encourage development in its Central Business and Riverfront Commercial zoning districts, the City amended its zoning ordinance to sharply reduce the volume of Board of Appeals variance hearings in these zones. A much wider array of uses in these two zones is now allowed by right. Additionally, the City Planning Commission, upon the recommendation of the Development Review Committee, may grant administrative waivers to setbacks, height, and density.

**Method: For growth areas, create an interjurisdictional and interdisciplinary team to assure the coordinated and timely review of projects.**

- **Town of Bel Air** - The Town recently established a mandatory Concept Plan review process for commercial projects. Town agencies (and State agencies, where applicable) meet with the developer before project plans are prepared. This enables the Town and the applicant to agree on required submittals, land use and development regulations, and procedures.
- **Anne Arundel County** - The County is testing a Federal, State, and County Consolidated Review Process for a large planned unit development proposed in one of the County's northern growth areas. The goal of the Process is to reduce the review and approval time from 30 months, to 14 months. The County and developer also expect that State and federal approvals for the project will be expedited as a result.

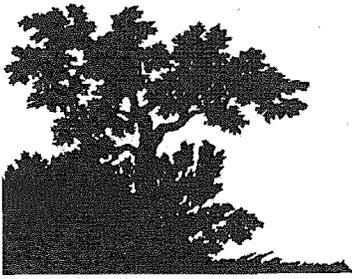
The Demonstration Process is intended to correct problems associated with separate and uncoordinated project reviews and approvals that normally characterize large-scale and complex projects. Too often, such projects create regulatory uncertainty, indecisiveness, and reversals for the applicant. It is an unfortunate irony that quality and innovation in project conception, design, scale, and purpose are often thwarted by regulatory obstacles within growth areas.

The Process calls upon an interdisciplinary team. It is comprised of representatives of the applicant and federal, County, and State governments who are empowered to negotiate and make decisions on the project. The concurrent review by all interested parties allows each participant to share and discuss their particular goals

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and objectives, to identify problems, and to reach mutually satisfactory solutions. The objectives of the Process are to improve land use planning, maximize environmental protection on developing sites, and minimize inter-agency conflicts and inconsistencies.

This new approach alters the normal process. Usually, the applicant moves incrementally through project review, providing more and more detail en route. Sometimes, the applicant has to begin anew as a result of conflicting objectives sought by subsequent reviewing agencies. Under the Demonstration Process, an applicant submits detailed site data and analyses very early. These are reviewed and field-checked by participating agencies, and a consensus is sought on the accuracy of baseline data and analytical findings. Once that consensus is reached, the project moves on to a site plan phase. Plans are reviewed by the team and, once again, consensus is sought. The Process relies on a series of scheduled consensus points in order to avoid costly revisions to development plans as well as time-consuming multiple reviews by various permitting agencies. Initial costs to the applicant will be greater. However, overall costs should be less, and the time required to obtain all permits from multiple levels of government should be considerably reduced. The Demonstration Process will be completed in early 1994.



## APPENDIX B: STATE AGENCY STREAMLINING EXAMPLES

### *A. Maryland Department of Natural Resources*

#### 1. Completed Activities

- **Reorganization of Permit Divisions:** The Water Resources Administration has combined the waterway/floodplain and nontidal wetlands permit divisions into a single unit. The benefits include cross-training of staff so that many routine and small activities are handled by a single project manager. Previously, every application was processed by both divisions. Significant projects that require substantive floodplain and nontidal wetlands evaluation are assigned to a single project manager responsible for coordinating the multi-disciplinary review. This organization eliminates multiple reviews by WRA staff and duplication of intra- and interagency coordination.
- **Expedited Permit Application Processing:** The WRA Permit Service Center is the single receiving point for Joint Federal/State Permit Applications for activities that impact areas regulated the State and the Federal government. Project data are entered into a centralized computer system that is accessible by WRA, the Maryland Department of the Environment, and the U.S. Army Corps of Engineers. This system allows project managers to access common information, to track progress of concurrent reviews, and to share findings.
- **Expedited Tidal Wetlands Approvals:** The WRA Tidal Wetlands Division instituted a review process wherein applications for certain minor project types are reviewed by assigned staff and given immediate authorization. This process maximizes staff time for review of those projects having significant potential to impact resources.
- **Nontidal Wetlands in the Chesapeake Bay Critical Area:** In the 1993 legislative session, the General Assembly passed House Bill 225 to remove the Chesapeake Bay Critical Area exemption from the State's Nontidal Wetlands Protection Act. This action resulted in a unified wetland protection process for the entire State, as opposed to having a separate process for the Critical Area.
- **Regional Letter of Authorization (RLOA):** WRA has developed a permit mechanism to allow quarterly approval of groups of routine maintenance and repair activities that temporarily impact nontidal wetlands, waterways and the 100-year floodplain. RLOAs are for specific entities that typically submit large numbers applications, such as the State Highway Administration, county departments of public works/transportation/utilities, major electric companies, and the C&O Canal National Historic Park. The RLOA reduces both the number of activities that must be individually reviewed and the time required for

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coordination with the Maryland Department of the Environment and the Corps of Engineers. This method frees up staff time to process other applications more expeditiously.

- **Variations in the Chesapeake Bay Critical Area:** The Critical Area Commission has authorized local jurisdictions to use an "administrative variance" procedure for certain projects, but with restrictions and conditions. In existing developed and growth areas where variances are frequently requested and usually warranted, this administrative process eliminates a time-consuming step at the local Board of Appeals.
- **Forest Conservation in Growth Areas:** The Forest Conservation Act was amended in 1993 to increase flexibility of local approval of projects within incorporated municipalities and designated growth areas. Known as "Street Trees," this option allows onsite mitigation credit for trees planted along streets, parking lots, and other places in urban areas. The option provides for tree planting, in lieu of the requirement of creating "forests." Protection of off-site forested areas with easements is another mitigation option. This flexibility will reduce or eliminate time-consuming searches for reforestation and afforestation sites, and will permit more concentrated use of land within planned growth areas.
- **Exemptions for Forest Harvesting Operations:** The Forest Conservation Act exempts forest harvesting operations under certain circumstances. In order to certify compliance with those conditions, a Declaration of Intent form was developed by an interagency working group. To facilitate compliance without requiring a separate review under local programs, this form will be required by the Soil Conservation Districts as part of the routine sediment and erosion control review for forest harvest operations.

## **2. Activities Underway**

- **Assumption of the Federal Section 404 Program:** Discussions have begun with the U.S. Environmental Protection Agency regarding full State assumption of the Section 404 provisions of the Clean Water Act. Assumption would mean elimination of separate federal review, currently conducted by the Corps of Engineers, for the vast majority of projects that impact wetlands and waterways. The major initiative would reduce the regulatory burden on the public, eliminate the potential for conflicts, greatly reduce review times, and will enhance effective wetlands protection.

- **Consolidated Public Notice Requirements:** The Water Resources Administration is drafting legislation for the 1994 legislative session that would create a single public notice and hearing process for activities requiring multiple permits. The purpose of consolidation is to enhance efforts to evaluate projects comprehensively and to eliminate current inconsistencies in public notice requirements and procedures. Applicants will experience reduced costs and improved permit processing time.
- **Permit Application Data Retrieval:** The WRA Permit Service Center will be able to identify several pieces of data that currently must be manually researched by permit reviewers. Ultimately, these data may include: water use classification, Maryland grid coordinates, watershed basin code, FEMA FIRM/Floodway map panel, USGS topo sheet, tax map sheet, proximity of known threatened and endangered species, known archaeological sites, availability of aerial photography, and other similar information. These data sets will be made available to other State and local government agencies to assist in their efforts.
- **Map and Image Processing System (MIPS):** The DNR digital orthophoto mapping project is providing a uniform large scale map system to support State and local agency activities. Boundaries of regulated resources (e.g., nontidal wetlands, and tidal wetlands, floodplains) and location of sensitive resources (e.g., Natural Heritage Areas, historic properties, and fisheries resources) can be annotated to the map series. These tools will help local jurisdictions in determining growth areas, rural population centers, and resource protection areas in their Comprehensive Plans. Property owners and permit applicants will benefit from enhanced ability to determine whether State regulatory requirements affect proposed development. Time and cost savings are anticipated.
- **Flagged Applications In Growth Areas:** Applications for permits from the Water Resources Administration for activities within designated growth areas will be flagged in the automated permit tracking system so that processing times and the number and type of projects can be evaluated in order to determine if adjustments in staff or procedures are appropriate. Flagging growth area applications will also allow permit reviewers to exercise discretion to expedite these projects whenever possible.
- **Nontidal Wetlands & Waterways Alternatives Analysis:** The WRA will evaluate the option of limiting the scope of the "alternatives analysis" for projects that impact waterways, wetlands, and floodplains within



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growth areas to practicable alternative sites within growth areas. This would support the objective of encouraging development in accordance with the new Planning Act. Where alternative sites are impracticable, onsite avoidance and minimization of regulated resources would still be required.

- **Nontidal Wetlands Mitigation Requirements:** A more flexible approach to fulfilling mitigation requirements for regulated activities within growth areas that are authorized by the Water Resources Administration will be developed. For example, it may be deemed appropriate to accept out-of-kind mitigation in order to enhance water resources within growth areas, such as degraded streams.
- **New Tidal Wetlands Regulations:** The WRA has prepared new regulations. A significant benefit will be elimination of the need for minor projects to be approved by the Board of Public Works, reducing the average permit processing time by nearly three weeks.
- **Nontidal Wetlands Mitigation Banking Regulations:** The Water Resources Administration is preparing regulations to implement nontidal wetlands mitigation banking, a new initiative authorized by the General Assembly in 1993. Under certain circumstances, activities with unavoidable impacts to nontidal wetlands may be able to satisfy mitigation requirements by drawing on credits available in established mitigation banks.
- **Chesapeake Bay Critical Area Quadrennial Comprehensive Review:** Local Critical Area programs and ordinances are being revised pursuant to a mandated quadrennial review process. Jurisdictions that designate specific future growth areas will receive streamlined approval for "Growth Allocation" from the Critical Area Commission when requested. This program refinement will avoid a more complex approval process which includes an additional public hearing.
- **Permits for Forest Harvesting Operations:** A recommended standardized form for use by applicants for forest harvesting operation permits has been developed by the Departments of Agriculture and Natural Resources. The form will facilitate the application and review processes of participating local permitting programs. The Soil Conservation Districts have agreed to act as a clearinghouse to assure that copies are distributed to all necessary county reviewing agencies.

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- Resource Identification for State Projects: State agencies that have the authority to implement projects from concept through site selection and construction should be provided with criteria for identifying regulated resources early in their processes. Early identification will help assure that avoidance and minimization efforts are undertaken prior to expenditure of design funds, and that required mitigation is factored into project scheduling and costs. Forest Service personnel have met with the State Departments of Budget & Fiscal Planning and General Services to outline items to be included in the Facility Program Parts I and II, and the Site Development checklist to assure consistency with the Forest Conservation Act. Similarly, the Water Resources Administration is providing recommendations for inclusion of floodplain and wetlands identification in State project development.

## *B. Maryland Department of the Environment*

### **1. Completed Activities**

- Major Reorganization of Permitting, Inspection and Enforcement: In October of 1992, MDE implemented a major Department-wide reorganization. Despite a significant reduction in the number of positions and general funding since FY'91, consolidation and streamlining processes have enabled the Department to maintain base level efforts while continuing with key initiatives. The reorganization/consolidation resulted in elimination of the Sediment and Stormwater Administration and merging of these activities and all NPDES functions into the Water Management Administration. Consolidation and streamlining have occurred in four major areas that impact the development process:
  - (1) Permits: Responsibility for the major components of Maryland's National Pollutant Discharge Elimination System (NPDES) has been placed within a single administration. The Water Management Administration (WMA) now oversees the industrial, municipal, and stormwater (including sediment and erosion control) elements of NPDES permitting and enforcement. This consolidation results in cost savings and sets the stage for additional streamlining activities.
  - (2) Inspection/Enforcement: The inspection and enforcement of NPDES permits, sediment control approvals, and stormwater management approvals have been consolidated within the Inspection and Compliance Program in WMA. Inspectors who previously specialized in a single control area have completed the first phase of multi-media cross training. Staff will provide comprehensive water pollution control inspection and compliance service.

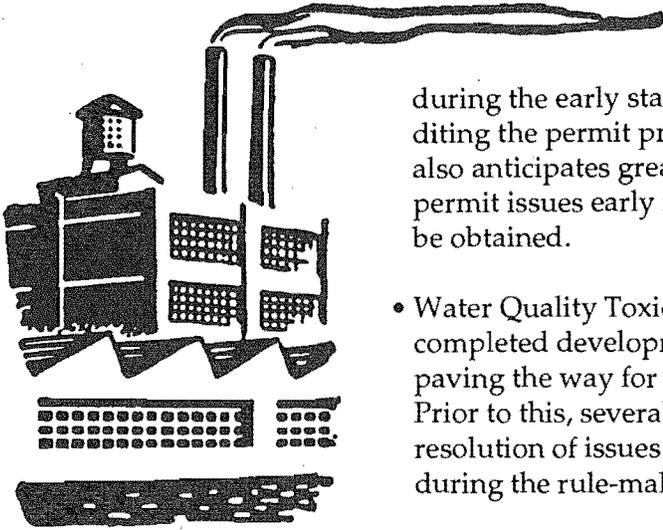
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(3) Nonpoint Source Control: Erosion and sediment control, stormwater management, water quality certification, and NPDES permits for construction activities were combined into the Nonpoint Source Permit Program within the Water Management Administration. This consolidation resulted in a General Stormwater Discharge permit for construction activities, and a coordinated review for State and federal construction projects requiring Water Quality Certification, and erosion, sediment control, and stormwater management approval. A Permit Tracking System was created for construction activities, cross referenced with existing databases for inspection and enforcement of erosion and sediment control and other NPDES permits.

(4) Capital Projects (Wastewater): Planning, design, and construction management, and inspection of projects funded by the MDE were previously handled by four separate units. The units have been combined and functions consolidated to assign a single project manager to oversee projects from beginning to end.



- Animal Waste Permitting Guidelines: MDE and the Maryland Department of Agriculture have agreed to Interagency Guidelines for Agricultural Waste Disposal and Pollution Control. The guidance provides criteria to identify farming operations which need permits. The guidance also enables a smoother permitting process for farmers and livestock operations. The Soil Conservation District and MDE have consolidated the approval process for manure storage facilities with the SCS, substantially shortening the approval procedure.
- Consolidated Inspection and Enforcement of Mining Activities: DNR and MDE have agreed to a memorandum of understanding to consolidate certain inspection and enforcement functions pertaining to coal and non-coal mining in the Water Resources Administration.
- General Approval of Forest Harvest Operations: MDE has issued a General Erosion and Sediment Control Approval for Forest Harvest Operations on State property. This approval establishes conditions under which forest harvests on State property are automatically authorized. This general approval is consistent with and similar to the general approval for State Highway Administration maintenance activities developed and implemented in 1991.
- Compliance with the Administrative Procedures Act (APA): To comply with the APA, MDE has formalized a Public Participation Policy. This policy establishes clear, consistent ground rules for involving the public



during the early stages of permit development and will result in expediting the permit process. Through application of this new policy, MDE also anticipates greater success in identifying and resolving outstanding permit issues early in the process so that consensus resolutions might be obtained.

- **Water Quality Toxics Regulations:** During 1993, WMA successfully completed development of the State's water quality toxics regulations, paving the way for improving timeliness of permit issuance/renewal. Prior to this, several expired permits had been "on hold" pending resolution of issues brought out in a major lawsuit filed against MDE during the rule-making process.
- **Dedication of the Small Business Center:** In June, 1993, MDE's Air and Radiation Management Administration (ARMA) officially opened the new Small Business Center to provide help to businesses involved in regulatory processes. The Center is also helping gain support of local governments that are concerned with stimulating economic development and is improving MDE's relations with the Department of Economic and Employment Development. In certain cases, customers could secure approvals through this "one-stop" shop approach.
- **Refuse Disposal Permits and Groundwater Discharge Permits for Rubble Landfills:** The Waste Management Administration (WAS), as part of the permitting of rubble landfills, now issues a Groundwater Discharge Permit concurrently with the Refuse Disposal Permit. Applications are processed simultaneously and a combined public hearing is conducted. WAS's goal is to issue a single permit incorporating the requirements of both permits. Similarly, Oil Operations Permits are issued concurrently with the respective NPDES Permits, and compliance inspections for both permits are conducted by a single inspector from the Oil Control Program.
- **Streamlining of Operator Certification Process:** The Water Management Administration, in cooperation with the Board of Waterworks and Waste Systems Operators, recently made significant improvements to the operator certification process. Specifically, the certification exam for first-time applicants will be given on a monthly, as opposed to semi-annual, basis. In addition, the time required for issuing new certificates and renewals has been reduced from six months to two weeks.

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## 2. Activities Underway

- **Agriculture Sediment Pollution Control Regulations:** In cooperation with the Department of Agriculture and the Soil Conservation Service, MDE recently completed proposed regulations to control agriculture sediment pollution. The roles of these agencies in controlling sediment pollution on farms will be defined. The regulations formally establish cooperative efforts (voluntary, but mandatory where landowners fail to correct violations) of all participating agencies and affected parties.
- **General Permits:** Rather than issuing individual permits to similar facilities, group permits are being developed under which the members of the group would only have to register to be covered by a permit. General Permits are being drafted for both air and wastewater discharge. The general permit for water discharge include discharge from sand and gravel pits and surface coal mines. These permits should be presented for public comment in early 1994. Next to be drafted will be the general permit for quarries. Other general permits are being processed for classes of industries and include truck/car washes, well yield tests, hydrostatic tests, pipe tank dewatering, animal waste lagoons, swimming pool backwash, non-contact cooling waters, seafood packers, septic tank sand filters for on-site sewage corrections, septic systems sized between 5,000 gpd and 10,000 gpd. These general permits will both significantly reduce workloads and eliminate delays in the project approvals.
- **Consolidation of Air Management Permits:** Permitting activities are being consolidated in the Air Management Administration to plan for implementation of the new federal operating permit program. This action will allow development of both construction and operating permits within a single MDE unit, resulting in expediting issuance of both permits.
- **Ongoing Strategic Planning:** In 1992, MDE established a continuing process for strategic planning. A principal objective is to identify opportunities to improve service to all customers (eg. industries, developers, municipalities, consulting firms, and permit applicants). A major focus of this effort will be improving existing laws, regulations and policies to facilitate permitting processes and to provide technical assistance and guidance to applicants.
- **Permits With Toxics Requirements:** With final adoption of the water quality toxics regulations, WMA can move forward with the issuance of 17 permits that include special requirements pertaining to

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biomonitoring and the development of integrated control strategies to reduce or eliminate toxic substances present in discharges.

- **General Water Quality Certificates for Activities in Nontidal Waters:** Two new General Water Quality Certifications (GWQC) have been drafted to eliminate the need for individual review and certification of approximately 70 percent of projects impacting nontidal wetlands and waters. The GWQC's are for projects that involve road crossings, discharges into stream headwaters, and impacts to isolated nontidal wetlands. MDE will be certifying additional Corps of Engineers' nationwide permits for structures and artificial canals, scientific measurement devices, U.S. Coast Guard approved bridges, surface coal mining activities, and temporary construction access and dewatering.
- **Multi-Media Compliance and Enforcement Initiatives:** MDE is developing multi-media compliance and enforcement actions as an adjunct to media specific actions in order to facilitate compliance and to simplify the administrative process of negotiating compliance plans. The process will allow each industry or permittee to develop a consolidated plan dealing with enforcement issues typically handled in a piece-meal fashion. A recent example includes a multi-media compliance plan and consent order developed for Eastern Stainless Steel which addresses air, waste, and water issues and involves groundwater remediation, surface water upgrades, improvement to air emissions, and a variety of other environmental improvements.
- **Pollution Prevention:** As one component of the Governor's "Partners in Prevention" program, MDE is building collaborative efforts amongst other State agencies and the private sector to highlight and strengthen the environmental and financial benefits of preventing pollution. A primary goal of the program is to encourage industry to look upstream from end-of-pipe control technologies and focus on ways to generate less waste. Overall, the pollution prevention program will leverage State resources in partnership with federal and industry resources to provide technical and financial assistance aimed at reducing waste at its source.
- **Revised Stormwater Regulations:** MDE has drafted revised stormwater management regulations to require developers to address water quality concerns when land is developed. The changes will modify the local stormwater management plan review and approval process, resulting in fewer modifications to developers' locally approved plans for State and federal wetland permits and licenses.

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- **Supplemental Inspections and Monitoring of Sewage Sludge Utilization:** In order to enhance efforts for monitoring and inspecting sludge utilization sites as a means to expedite various compliance activities, MDE is authorized under the Environmental Article, Section 9-244(c) to provide grants to counties to perform supplemental inspections. The funds used to support these activities are collected as part of the sludge generator fees. Up to 45 percent of the fees collected for sludge that is generated outside the county, but is utilized in the county, may be used for these purposes.
  - **Maryland Solid Waste Accord:** Responding to issues raised at a fall 1992 "Solid Waste Accord," approximately 50 action items were identified at the State and local levels. To address these concerns, MDE has greatly expanded its public outreach efforts to provide for open dialogue of permitting issues throughout the permit review process and to allow for concerns to be incorporated into permit conditions rather than simply be voiced as criticisms in the public hearing phase.
  - **Solid Waste Management Plans:** To assure that counties have adequate facilities for the management and disposal of solid waste, WAS has instituted a Statewide program to require the counties to update and revise their solid waste management plans. In addition to local review of solid waste management needs and goals, WAS is also requiring the counties to expand public participation through advisory committees, to establish siting criteria for future facilities, and to evaluate regional or areawide facilities with adjoining jurisdictions. Through good and effective solid waste planning at the county level with input by citizens during the initial site selection and evaluation process, much of the controversy associated with the WAS permitting process for Refuse Disposal Permit applications will be eliminated.

### **3. Future Activities**

- **Expansion of the Small Business Center Concept to Other Media:** MDE plans to expand the Small Business Center concept to permitting assistance for water and waste related permits. This expansion should afford many permit applicants with the opportunity for help, and in some cases, "one-stop shopping" for permits. As part of this effort, electronic transmittal/receipt of application information is to be explored.
- **DNR-MDE Coordination of Power Plant Research Program (PPRP):** To more efficiently address scientific and technical air and water issues

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associated with the licensing, permitting, and operation of power generating facilities in the State, MDE and DNR recently executed an interagency agreement. The agreement requires that DNR and MDE jointly identify research needs and select contractors to undertake the necessary studies. MDE and DNR will also be soliciting technical requests from other relevant State agencies. These coordination efforts will facilitate the processing of certificates of public convenience and necessity for power plants.

## *C. Maryland Department of Housing and Community Development*

### Maryland Building Performance Standards

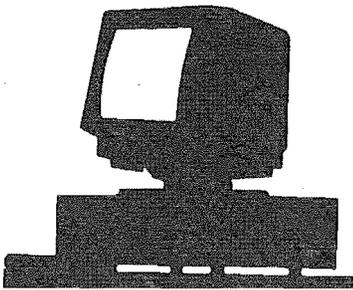
#### 1. Completed Activities

- **New Legislation:** The Department of Housing and Community Development envisioned legislation that would simplify the building code system in the State of Maryland.
- **Task Force:** The Governor created a Task Force to identify a means of simplifying the building codes within Maryland.
- **Enactment:** The State of Maryland enacted legislation to create the Maryland Building Performance Standards (MBPS).

#### 2. Activities Underway

- **Implementation:** DHCD, working with the Governor's Task Force, is in the process of developing an implementation plan for the adoption of the Building Performance Standards.
- **Future Code Simplification:** DHCD is examining other codes and regulations related to the building industry with the idea of increasing uniformity and reducing complexity for the public and private sector. It will concentrate on the plumbing code, the mechanical code and the electrical code, but will review all related regulations as well. Each topic that DHCD determines could be simplified or made more uniform will be given to the Governor's Task Force with a request that it be studied. If the Task Force deems it appropriate for consideration, DHCD will request that they draft legislation to be presented to the General Assembly.

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- **Task Force:** The Governor is extending the Task Force through 1995 to oversee the implementation of the MBPS and to address other codes and standards for incorporation into the Standards. The Task Force will examine the plumbing, mechanical and electrical codes, as well as related laws and regulations.
  - **Prototype Computer System:** DHCD is working with the University of Maryland and six local jurisdictions to provide a working model computer data base system for the MBPS.
  - **Cooperative Activities:** DHCD is working with the Maryland Building Officials Association to coordinate efforts between State and local jurisdictions for code reviews.
  - **Fire Service:** DHCD will work closely with the fire service groups, including the Office of the State Fire Marshal, to assure that the State Fire Prevention Code and related regulations are entered into the computer data base system. In addition, all local amendments to the fire codes will be included.



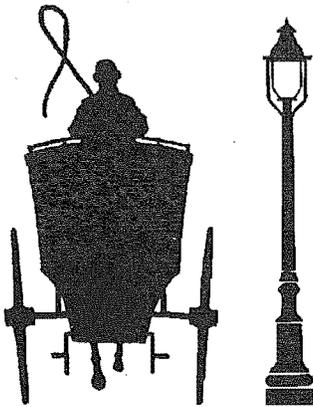
### 3. Future Activities

- **Computer Data Base System:** A complete computerized data base system will be created to link the offices of local building and fire officials. The system will contain the current edition of the building and fire codes and will include all local amendments. A bulletin board system for announcements of interest to the code officials and design professionals will be incorporated into the computer link.
- **Subscription Service:** DHCD will make the computer data base system available by subscription to all interested parties.
- **Computer Bulletin Board:** DHCD will work with the Task Force and local jurisdictions through the Maryland Municipal League and the Maryland Association of Counties to identify other data that may be efficiently distributed through the Bulletin Board portion of the data base system. This may include information on licensing, code update information by BOCA and other code groups, and proposed legislation that impacts the construction industry.
- **Regulations:** DHCD will work with the Task Force and local jurisdictions through the Maryland Municipal League and the Maryland

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Association of Counties to identify regulations that may be improved by using the methods utilized by the MBPS. These will include data related to the building construction process such as zoning, floodplain criteria, and licensing.

- **Cooperative Activities:** DHCD will work with the code review committees in private sector organizations such as architecture, engineering, home builders, interior designers, and general contractors. In addition, DHCD will work with the code review committees of the Maryland Municipal League and the Maryland Association of Counties to coordinate code review activities.



## Historic and Cultural Programs

### 1. Completed Activities

- **Intermodal Surface Transportation Efficiency Act (ISTEA):** Historical and Cultural Program (HCP) has streamlined the Section 106 process for projects that receive grants through the ISTEA Enhancement Program. Certain projects are eligible for a streamlined review process or may be exempt from federal review. This has been done through a Programmatic Agreement executed by HCP, the Maryland Department of Transportation, the Federal Highway Administration and the Advisory Council on Historic Preservation.

### 2. Future Activities

- **Wetlands:** It is anticipated that certain projects subject to the Section 106 process will have a streamlined permit process due to a proposed programmatic agreement between Historical and Cultural Programs, the Department of Natural Resources and the U.S. Army Corps of Engineers. The Department of Natural Resources would assume all permitting responsibilities for wetlands, and the agreement would exempt certain categories of projects from the review process.



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