

## **Maryland Sustainable Growth Commission Meeting**

September 24, 2012 / 1:00 p.m. to 4:00 p.m.

City of Laurel- Laurel Municipal Center  
8103 Sandy Spring Road  
Laurel, MD 20207

### **Meeting Summary**

**Members:** Jon Laria, Calvin Ball, Derick Berlage, Greg Bowen, Karl Brendle, David Carey, Diane Chasse, Cheryl Cort, David Costello, Sandy Coyman, Alan Girard, David Goshorn, Richard Hall, Marty Baker on behalf of Don Halligan, Frank Hertsch, Gerrit Knaap, Stephen Lafferty, David Lever, Mary Ann Lisanti, Robb Merritt, Ursula Powidzki, Dru Schmidt-Perkins, Ray Skinner, Bryce Turner, and Duane Yoder

**Attendees:** Del. Tawanna P. Gaines, Sasha E. Desrouleaux, Tom Ballentine, Mollie Byron, Ashley Valis, Amanda Mock, Les Knapp, Carol Gilbert, and Christopher Uhl

**MDP Staff:** Matt Power, Jenny King, Rich Josephson, Andy Ratner, Chuck Boyd, Arabia Davis, Graham Petto, Ryan Sigworth, and David Dahlstrom,

### **Introductions/Administrative Matters**

The Chair, Jon Laria, welcomed everyone to the meeting and gave a special thank you to Mayor Craig Moe and Karl Brendle for the lunch that the City of Laurel provided to the Commission. Mr. Laria also acknowledged that Delegate Tawanna Gaines was in the audience.

Mayor Moe welcomed the Sustainable Growth Commission to the City of Laurel and gave an overview of the redevelopment efforts occurring in the City, including City Hall itself, the Town Center at Laurel project (formerly Laurel Mall), and the Arts & Entertainment District. Mr. Brendle followed Mayor Moe's introductory remarks with a PowerPoint presentation on the City of Laurel, highlighting the City's Revitalization Overlay Program, which establishes six different overlay categories for about 30% of the city and is designed to promote redevelopment opportunities that are unique to the conditions of each area.

Following the welcoming remarks and overview of the City of Laurel, Mr. Laria announced that there would be a special Commission meeting on November 8<sup>th</sup> to discuss the WIP Workgroup's assessment of the Growth Offset Policy. The special meeting will be held at MDP's Olmsted Conference Room in Baltimore. He encouraged Commission members to attend in person, if at all possible but noted that, teleconference accommodations will be available for those that cannot get to Baltimore. Mr. Laria also mentioned that due to scheduling conflicts the next regularly

scheduled meeting to be held in Greenbelt is now scheduled for December 11<sup>th</sup> rather than November. He apologized for any inconvenience this rescheduling may have created.

#### **Adequate Public Facilities Workgroup Update**

The Chair of the Adequate Public Facility Workgroup, Frank Hertsch, directed the Commission members' attention to the Workgroup's report to the MSGC Chairman. Mr. Hertsch pointed out that the submitted reports indicate that only four counties have experienced development restrictions associated with adequate public facility ordinances (APFO), and one jurisdiction has suspended impact fee collection for the next two years. However, due to the limited number of restrictions identified, the incomplete reporting, and the inconsistent data submitted by counties and municipalities, the Workgroup has decided to expand the investigation of APFOs beyond the examination of the submitted reports. To provide the Commission with a more complete reporting of APFOs, the Workgroup members have identified a number of issues that they want to investigate. The outline of the draft report is included in the memorandum to the Commission. Given the diversity of perspectives on the Commission, Greg Bowen, one member on the Workgroup, strongly encouraged members to closely review the outline and provide any recommendations on what should be included back to Mr. Hertsch and MDP's assigned staff, David Dahlstrom. Mr. Knaap suggested that the Workgroup broaden its evaluation to look at how other states have handled APFOs. Mr. Lafferty questioned whether there was a need for greater uniformity among jurisdictions that adopt APFOs. Mr. Hertsch responded that through this investigation we may find that out. He went on to explain that he has a concern that too many local jurisdictions adopt APFOs as a means to create a moratorium. Hopefully, through this investigation, we will be able to find out if this is a valid concern or not.

Mr. Lever noted that school restrictions impacted development in every county APFO report. Mr. Lever expressed caution when evaluating these school restrictions, as there are a lot of things that go into the analysis of student capacity for schools. He pointed out that the design of a school affects the rated capacity of a school and the effectiveness of the education provided. Mr. Lever raised the concern that developers may want to buy their way out of school restrictions – noting that incremental developer contributions may not be enough to build the needed facilities. He mentioned that Florida has experience with examining this issue.

It was also suggested that the APFO study examine if there is a correlation between population size or growth rate and the use of an APFO as a means to control development.

#### **Concentrating Growth Workgroup Update**

Mr. Berlage mentioned that the Concentrating Growth Workgroup was following two basic principles: 1) saying no to sprawl, and 2) saying yes to smart growth. He noted that the Financing Subgroup has a report on Financing Smart Growth that he believes has several recommendations that are ready for adoption by the full Commission. Other concepts may require additional research but they could be considered for adoption at a future meeting. He stated that Carol Gilbert will explain the recommendations, and noted that the group is looking for feedback.

Mr. Berlage explained that a sub-group headed by Rich Josephson will report on the Smart Growth Scorecard. We believe that the Commission should begin to issue an annual “smart growth report card” that assesses progress on a statewide and regional level. Mr. Josephson will explain our thinking, and solicit your feedback on: outcomes and policies that should be used to create the report card “grades”; the data sources that should be used; the proper geography for the regional report cards; and any other issues.

#### *Financing Sub-Group*

Mr. Berlage turned to Ms. Gilbert to update the Commission on the Finance Sub-group’s efforts. Ms. Gilbert directed the Commission’s attention to the distributed report, “Sustainable Maryland 2.0: Financing Smart Growth.” Ms. Gilbert noted that significant progress has been made reinvesting in Maryland’s existing and historic neighborhoods since the Task Force on the Future for Growth and Development in Maryland issued the report “Sustainable Maryland: Acceleration: Investment in the Revitalization and Livability of Maryland’s Neighborhoods.” This new report takes existing efforts to the next level strengthening the current tools for Smart Growth, as well as developing new tools to expand public-private partnerships and the financing available for the revitalization and redevelopment of existing neighborhoods. Ms. Gilbert noted that the sub-group has four overarching priority recommendations:

1. Establishment of a renewable funding mechanism to increase special funds for CORE Smart Growth programs, with the aim of raising \$35 million annually.
2. Enhancement of legislative authority for Tax Increment Financing (TIF) such that substantial new investment can be made in older existing communities with State incentives.
3. Enhancement of local infrastructure financing in older communities via LGIF or a more formal Infrastructure Bank.
4. Strengthen nonprofit community investors – Community Development Financial Institutions (CDFIs) – through a State capacity building program.

In response to a question regarding the recommendation on page 16 of the report, concerning directing a portion of the Maryland real estate transfer tax to promote concentrating growth efforts, Ms. Gilbert said that this particular recommendation is not one of the four priorities recommended by the sub-group. The sub-group discussed the real estate transfer tax as a possible source of funding, but it was not recommended at this time. Several other members expressed concern about this concept. Ms. Gilbert noted that members of the sub-group recognized that this issue was not fully developed, and as such this concept was not part of the recommended priorities.

A motion was made by David Costello, seconded by Greg Bowen, to endorse the four priorities identified by the Finance Sub-group on page 3 of the report. Mr. Laria called the vote – all in favor, none opposed.

#### *Smart Growth Scorecard Sub-Group*

Mr. Berlage then turned to Rich Josephson to provide an update on the Smart Growth Scorecard Sub-group’s efforts. As an introduction to this topic, Mr. Laria added that he had asked the

Concentrating Workgroup to investigate the potential of developing a Smart Growth Report Card as a communication/public relations tool for the Commission.

Mr. Josephson stated that the sub-group has been working to develop a format for an annual report card that can illustrate the progress Maryland is making toward achieving Smart Growth. The sub-group has identified two sets of measures to track annual progress towards implementation of Smart Growth in Maryland:

1. Measures of Smart Growth Outcomes
2. Measures of Smart Growth Planning, Policymaking & Programming

Mr. Josephson noted that the sub-group is working to address challenges associated with these measures, such as 1) the significant length of time required to demonstrate progress; 2) the heavy influence of outside economic factors; and 3) the variability of funding availability (e.g. land preservation). Mr. Josephson then referred the group to the distributed table entitled, "Draft Smart Growth Scorecard Framework."

Mr. Hertsch expressed concern that the draft Scorecard did not include any benchmarks for economic development. Mr. Coyman noted that Smart Growth often does not correlate directly with economic growth. Ms. Powidzki concurred that measuring the impact of smart growth on economic development is difficult. Mr. Hertsch noted that he did not disagree that it may be complex and not always have direct impact, but "measuring the health of the Bay" done by the Chesapeake Bay Foundation is not much different in terms of complexity than measuring the indirect impact of the health of Maryland's economy." Ms. Schmidt-Perkins noted that the economic development measures lacked recognition of the contributions made by the agricultural industry, and that economic development measures are silent on the preferred location of jobs or the type of jobs. Mr. Girard related his experience with the Chesapeake Bay Foundation in trying to focus on eight measures as part of their scorecard.

Mr. Bowen questioned the attainability of having 90% of new development in PFAs. Mr. Coyman suggested possibly having a comparison of Maryland's smart growth efforts versus other comparable states. Mr. Ball suggested that multi-modal transportation facilities be considered in the measurement of "promoting alternative transportation." Mr. Knaap expressed concern that the scorecard has indicators which are too narrowly focused, noting there is no mention of equity. Mr. Knaap cautioned the Commission to be careful on who is grading whom.

Mr. Josephson indicated that the group would go back and review these suggestions as they continue to refine the draft scorecard. Mr. Laria encouraged the sub-group to not let these efforts collapse under the weight of data collection and complex analysis. It is his hope that this scorecard could be used by the Commission to advance the need for and benefit of smart growth.

#### *Streamlining the Development Approval Sub-group*

Mr. Laria provided a brief update on the Streamlining Sub-group. He noted that the Commission's leadership is looking for jurisdictions that would be willing to adopt the streamlined development approval strategies as part of a pilot program. Mr. Laria reported that he has had conversations with Prince George's County Executive Rushern Baker, and that the county is interested in exploring a pilot effort – especially given its commitment to transit-

oriented development and the significant transit resources / opportunities that exist in the county. It was suggested that Annapolis may be another good candidate for a pilot program.

*Concentrating Rural Growth Sub-group*

Mr. Yoder reported that the sub-group just got started with its first organizational conference call last month. He said that a second call will be coming up on September 25<sup>th</sup> to begin discussing how to classify rural communities into different categories.

**PlanMaryland Update**

Mr. Boyd briefed the Commission on the status of the PlanMaryland Progress Report. The Progress Report has been submitted to Governor O'Malley, and the report can be downloaded from the Plan.Maryland.gov website. Mr. Boyd stated that MDP would be printing up a limited number of Progress Report documents and encouraged Commission members to review the State agency conceptual Implementation Strategies online. Mr. Laria reported that since he has now had a chance to read the final Progress Report, he would send a letter to the Governor expressing the Commission's continued interest and commitment toward implementing the Plan.

Mr. Boyd noted that in response to concerns about insufficient time for people to comment on the conceptual Implementation Strategies, the Progress Report states that over the next 60 days MDP will collect and forward any public comments received on the strategies to the respective State agencies. MDP staff will continue to work with State agencies to refine the Implementation Strategies, and will coordinate subsequent review and comment on the strategies with the PlanMaryland workgroup. MDP staff is also working with local governments to begin identifying their respective Planning Areas; to date no jurisdiction has submitted an application.

**Annual Forum and Annual Award Program Update**

Mr. Boyd reported that the Forum has been moved to February, 2013 (possibly the 5<sup>th</sup>, 7<sup>th</sup> or 12<sup>th</sup>) due to difficulty securing the Silver Spring Civic Building. Since the Forum has been rescheduled to February, it has been recommended that the Commission hold the event in Annapolis, so that there is a greater likelihood of getting State representatives to attend. Once a firm date has been established, a notice will be sent out so that Commission members can reserve the date. As had previously been decided, the event is been scheduled for late afternoon – early evening, from 3:00 p.m. to 7:00 p.m. The Ad Hoc Planning Committee has identified “Economic Benefits of Smart Growth” as the theme of the Forum and is developing a list of speakers that can address this topic. Mr. Boyd encouraged Commission members to contact him if they had any suggested speakers.

Mr. Boyd also updated the Commission on the Maryland Sustainable Growth Awards effort. Notices have been sent out to people on MDP's constant contact mailing list, and other organizations have forwarded the press release to their members. Mr. Boyd reported that staff has received several inquiries about what would be needed to nominate a project. The submission deadline for nominations is November 8<sup>th</sup>. The Planning Committee members have agreed to participate on the Selection Committee, and will be reviewing the nominations and providing a recommendation to the full Commission at the December 11<sup>th</sup> meeting.

**WIP Workgroup Comments on the Growth Offset Policy**

Alan Girard, Chair of the WIP Workgroup, reported that the workgroup met on August 29<sup>th</sup> to review Maryland Department of the Environment's (MDE) draft "Accounting for Growth" regulations and to continue discussions on presenting a formal recommendation to the Commission. Mr. Girard highlighted the major issues that need to be resolved. Mr. Costello reported on outreach efforts MDE has taken to inform people about the proposed policy / regulations, and listening to their concerns. Mr. Costello described the next steps that MDE will be taking to complete the draft regulations.

Mr. Bowen stated that the third-party verification of nutrient credits is a critical issue. He indicated that there needs to be strong accountability, or we won't see any improvement. Mr. Coyman agreed, noting that verification is hugely important. Mr. Coyman stated that existing communities need to be able to participate in this process. Mr. Costello stated that MDE is looking at a number of issues in finalizing the draft regulations.

Mr. Hertsch commented that the timing of meeting the growth offset requirement needs to be factored into the regulations. He stated that there needs to be a means to phase in or gradually make payment for their obligations overtime. Mr. Hertsch noted that the regulations need to be capable of accommodating changes in development projects' overtime. Development projects will adjust to meet market conditions and housing types. It is important to allow the costs associated with this new requirement to be spread out over the life of a project and not require that they be paid up front for the entire development.

In response to a question on whether the Accounting for Growth regulations would discourage redevelopment and improvement, noting that the current stormwater regulations impede redevelopment even when there is a reduction in the amount of impervious surface associated with a project, Mr. Costello indicated that the intent of MDE is to incentivize redevelopment through these regulations, but MDE wants to get everyone's comments so they can address these types of concerns.

**Tier IV Exemption Overview (Sustainable Growth and Agricultural Preservation Act of 2012 Requirement)**

Mr. Tassone went over with the Commission the draft protocol that reflects comments made at the July meeting. Mr. Coyman indicated that the Tier IV Exemption protocol seemed pretty straight forward, but was wondering what discretion was built in to MDP's evaluation. Mr. Tassone stated that as part of MDP's review process, staff would be looking at a County's zoning, comprehensive plan, subdivision regulations and history. Mr. Yoder asked how a county would request a Tier IV exemption. Mr. Tassone stated that after adopting the County's Growth Tier Map, any county could send a letter to MDP requesting a Tier IV exemption. Usually, MDP staff works with a county on the Tier IV exemption process, well before the final adoption of the map. Mr. Hertsch asked how many counties are expected to request the exemption. Mr. Tassone indicated that we have been discussing the process with several jurisdictions, but really don't have a firm estimate.

A motion to adopt the Tier IV Exemption protocol as submitted was made by Secretary Skinner, and seconded by Mr. Coyman. Mr. Laria called the vote – all in favor and none opposed.

**Public Comments**

Mr. Laria called for anyone in the audience that wanted to speak. No public comments were made.

The meeting was adjourned at 4:15 p.m.