Prince George's County, Maryland Sustainable Growth and Agricultural Preservation Act of 2012

Submittal to the
Maryland Department of Planning
Regarding Conformance with SB 236
January 22, 2013

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Introduction and Background

On November 20, 2012, the Prince George's County Council approved the necessary documents to implement the requirements of The Sustainable Growth and Agricultural Preservation Act of 2012 (referred to herein as "SGA" or "the SGA Tiers"). The SGA bill (Senate Bill 236) was passed by the Maryland General Assembly through the enactment of Chapter 149, 2012 Laws of Maryland, during its 2012 Regular Session, thereby amending Section 9-206 of the Environmental Article, Annotated Code of Maryland. The bill became effective July 1, 2012.

The purpose of this submittal is to provide to the Maryland Department of Planning the necessary documentation demonstrating conformance with the SB 236 mapping criteria. This document also describes how the SGA Tiers conform to local zoning and land use planning documents and existing and proposed development patterns.

The County Council's approval package included the SGA Tier Map and the resolution of adoption (see Appendices 1 and 2, respectively) and a subdivision bill that contains the necessary elements for implementation (see Appendix 3). This package was transmitted to MDP by letter dated December 26, 2012 from the Prince George's County Planning Director.

During the process of approval of the SGA Tier Map, a court decision rendered the Subregion 5 and 6 master plans approved in 2009 invalid. These plans apply to the southern third of the county and amended the General Plan growth policy tier boundaries to those shown on the SGA Map. The County Council determined during their deliberations on the SGA Tier Map that the growth policy tier boundaries that resulted from the Subregion 5 and 6 plan approvals in 2009 were the boundaries that were to be reflected on the SGA Tier Map.

Additional background information is available on the Planning Department's website here: http://www.pgplanning.org/Projects/SGA2012.htm. The available information includes additional resources from the Planning Board review portion of the process.

Public Outreach and Approval Processes

There were two primary avenues of public input: public meetings and public hearings. Public meetings were held June 20 and 27, 2012; the first in Largo and the second in Baden. Presentations were made by staff from the Maryland Department of Planning (MDP) and The Maryland-National Capital Park and Planning Commission's Prince George's County Planning Department, followed by a question and answer period. The comments from the public meetings were compiled and a summary was provided on the website and published as part of the staff report to the Planning Board.

The second phase of public input was through the Prince George's County Planning Board and County Council's formal approval processes for the map and the accompanying subdivision bill. The Planning Board held two public hearings, on September 13 and October 4, 2012. On October 4, 2012, the

Planning Board transmitted their recommendations to the County Council. The Planning Board's recommendations included a map showing 95 percent of the Rural Tier designated as Tier IV and a minor residential subdivision definition of seven lots.

The package was evaluated by the County Council's Planning, Zoning and Economic Development (PZED) Committee on November 7, 2012. The map, the Council Resolution adopting the map, and the subdivision bill were all voted out of the PZED committee and referred to the full Council for a public hearing. PZED's recommendation to the Council was to adopt the Planning Board's transmitted map, with the addition of the change noted as Area 2 in the discussion below, and a subdivision bill that defines a minor subdivision in Tier IV as seven lots.

On November 20, 2012, the County Council held a public hearing to receive additional input on the Council bill, the Council resolution and the map. Later that day, they approved CR-83-2012 which adopts the map and CB-104-2012 which is the subdivision bill containing the necessary regulations for implementation. The map and subdivision bill reflected the Planning Board's and PZED's recommendations: mapping 95 percent of the Rural Tier in Tier IV and a Tier IV minor residential subdivision definition of seven lots.

Mapping Criteria

The SGA Tiers were designated using the mapping criteria found in SB 236; the direction provided by the PlanMaryland designations; the 2002 General Plan designations of Developed Tier, Developing Tier, and Rural Tier; local zoning and land use plans; and sewer category designations from the Prince George's County Ten-Year Water and Sewer Plan.

SGA Tiers I and II are located in the Developed and Developing Tiers and either have existing sewer service (sewer categories 3 and 4) or are planned for public service (sewer category 5). SGA Tiers III and IV are not planned for public sewer service because of their designation in the Rural Tier and are generally in category 6 although there are some exceptions. Table 1 below provides an outline of the SB 236 criteria and its general applicability in Prince George's County.

Table 1. Summary of the Sustainable Growth Act Tiers Applicable to Residential Subdivisions

Tier	Major Subdivisions (8 or more lots)	Minor Subdivisions (7 or fewer lots)
Tier I: currently served by public sewer and within a municipality that is a Priority Funding Area or currently served by public sewer and mapped locally designated growth areas (sewer categories 3 and 4)	allowed on public sewer	allowed on public sewer
Tier II: currently planned for public sewer and in the municipal growth element or mapped locally designated growth areas (sewer category 5)	allowed on public sewer	allowed on public sewer; minors permitted on septics but should be seen as interim systems
Tier III: the area is not planned for public sewer and is not dominated by agricultural or forest land; not planned or zoned for agricultural or resource protection; and is one of the following: - a municipality not served by public system; - a defined rural village; - a mapped locally designated growth area; or - areas planned and zoned for large lot and rural development (sewer category 6)	allowed using on- site disposal with individual, community or shared facility	allowed on septic

Tier	Major Subdivisions (8 or more lots)	Minor Subdivisions (7 or fewer lots)
Tier IV: the area is not planned for public sewer and is: - planned or zoned for agricultural and resource protection; - dominated by agricultural and resource areas; - Rural Legacy Areas, Priority Preservation Areas; or - Areas protected to the benefit of the state or local jurisdiction (sewer category 6)	major subdivisions are not allowed on a septic system of any kind	allowed on septic

The most difficult aspect of this mapping exercise was dividing the Rural Tier into Tiers III and IV. To evaluate potential Tier III and IV areas, the entire Rural Tier was evaluated, and Tier III areas were carefully designated using the three sets of criteria described below.

SB 236 Mapping Criteria

Refer to Table 1 above for a description of the SB 236 definitions and their applicability in Prince George's County. Another criteria contained in SB 236 is to avoid creating Tier III areas surrounded by Tier IV areas. This criterion is met as shown on the approved SGA Tier Map.

PlanMaryland Mapping Criteria

All of the PlanMaryland Designated Place descriptions were consulted when creating the SGA Tiers. The two most helpful PlanMaryland Designated Place descriptions were "Low Density Development Areas" and "Rural Resource Areas" because of their similarities to SGA Tiers III and IV, respectively. The following are the descriptions of these areas contained in the PlanMaryland Revised Draft Plan:

"Low Density Development Areas can be characterized as low density, auto-dependent, and single-use, with large lot single-family houses being the most prevalent land use. Typically these areas are not served by public water and sewer, but may require higher levels of public services than agricultural and other resource-based uses. Some of these areas accommodate significant population." (PlanMaryland Revised Draft Plan, Page 4-4)

"Rural Resource Areas are typically those areas in a jurisdiction where land preservation and conservation efforts take place. Generally, these areas are not located in urban areas. These areas will often have resource-based industries, such as agriculture or forestry, that need to be protected. Other areas may

have natural, historic, or cultural resources that may be endangered by urban development. In many cases, these Rural Resource Areas also have a Special Area designation for added resource protection. (PlanMaryland Revised Draft Plan, Page 4-4)

Using these PlanMaryland descriptions as a guide, the County Council mapped Tier III and Tier IV areas accordingly.

Prince George's County's Local Criteria

The designation of SGA Tiers I and II were straightforward and did not result in the need for additional analysis or local criteria.

With regard to SGA Tiers III and IV, because Prince George's County designated a Rural Tier in the 2002 General Plan as an area where residential growth would be minimal, dividing the Rural Tier into SGA Tiers III and IV was difficult. Criteria used in this analysis included all of the criterion stated above and the following:

- The existing and planned community character of the area as stated in the 2002 General Plan and other relevant land use plans, including but not limited to master, sector and area plans and Functional Master Plans such as the 2005 Countywide Green Infrastructure Plan.
- The Green Infrastructure Plan's designated network was used as a guide to the locallydetermined prioritized areas for conservation.
- Areas of the Rural Tier that are isolated from other portions of the Rural Tier were designated as Tier III areas because of their lack of connectivity to other areas of conservation value.
- Areas surrounded by SGA Tiers I and II on most sides were considered for Tier III designation because of existing conditions such as parcelization and existing and planned residential development patterns.
- Areas that are predominantly in public ownership, isolated from the main block of the Rural
 Tier, and do not require Tier IV designation to achieve preservation were designated as Tier III.
- Areas that contain patches 100 acres in size or larger of un-fragmented agricultural and forestry uses were considered for Tier IV designation. (The 100-acre benchmark was provided by MDP as a guideline for agricultural and forestry uses.)
- Tier IV areas were mapped where policies, parcel sizes and adjacent land uses support
 agricultural and forestry conservation efforts. Tier IV areas do not include all areas where
 agricultural and forestry uses remain so that conservation efforts can be focused on large blocks

of priority areas. Tier IV areas are primarily zoned O-S which is the least dense residential zoning category available.

Mapping Results

The approved SGA Tier Map for Prince George's County contains six areas designated as Tier III totaling only 5,243 acres and comprising only 1.7 percent of the county and only 5.1 percent of the Rural Tier. Designated Tier IV areas comprise 31.9 percent of the county and 94.9 percent of the Rural Tier.

Table 2. Summary of the Sustainable Growth Act Tiers

Tiers by Area	Acreage	Percentage of Developed and Developing Tiers	Percentage of Rural Tier	Percentage of the County
Developed and Developing Tiers	204,574	100		66.4
Tier I	168,962	82.6		66.4
Tier II	35,612	17.4		
Rural Tier	103,356		100	33.6
Tier III	5,243		5.1	1.7
Tier IV	98,113		94.9	31.9

Table 3. Sustainable Growth Act Mapping Results

Existing DUs	4,370
Additional DUs in Rural Tier	+ 2,559
TOTAL DUS	6,929
DU per acre in the Rural Tier	0.067 or 1: 15
Assume 25% loss in total number of lots*	- 1,732
TOTAL ESTIMATED DUS	5,197
DU per acre in the Rural Tier (likely)	0.05 or 1:20

^{* &}quot;loss of lots" includes "lots lost" due to successful conservation efforts, lack of percolation sites, and physical or regulatory constraints during development

The County Council's approved map meets the intent of SB 236 by limiting the number of new dwelling units in the Rural Tier through maximization of the Tier IV areas, resulting in an overall projected likely build-out at a density of approximately one dwelling unit per 20 acres.

Tier III Designations and Justifications

The following descriptions provide support for the designation of carefully selected areas of Tier III based on the mapping criteria contained in SB 236, PlanMaryland, and the locally developed evaluation criteria. The Tier III area designations (1 through 6) are provided for reference and shown on Map 2 in Appendix 4.

Area 1 – Rocky Gorge Reservoir Area

The guiding land use document for Area 1 is the 2010 Subregion 1 Approved Master Plan and Sectional Map Amendment in addition to the 2002 General Plan and its related functional master plans. The properties in Tier III labeled as Area 1 are designated as "institutional" and "open space" uses on the future land use map.

The Washington Suburban Sanitary Commission (WSSC) is the primary property owner in this area, with ownership of over 234 acres, zoned R-O-S (reserved open space, one dwelling unit per 20 acres). WSSC owns this land with the expressed purpose of protecting the water quality of the reservoir, which is used as a primary source of drinking water for Montgomery and Prince George's Counties. This ownership by a regional public utility makes these properties unique.

The other properties in this portion of the Rural Tier are developed with single-family detached homes in the O-S Zone (one dwelling unit per five acres). The M-NCPPC's Department of Parks and Recreation operates the T. Howard Duckett Community Recreation Center located on the north side of Brooklyn Bridge Road on both sides of Supplee Lane. The center features a basketball, football/soccer, and tennis courts in addition to a rec center and picnic areas.

The Subregion 1 Plan describes the desired land use patterns in the Rural Tier in this portion of the county as follows:

"The vision for the Rural Tier in Subregion 1 is protection of large amounts of land for wooded wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist. Residential development pressures and equity for landowners are balanced with efforts to preserve rural environments and character."

The vision stated above has been achieved in Area 1 – no additional preservation opportunities exist. In addition, the properties in Area 1 are all outside the Priority Preservation Area (PPA) and are not planned or zoned for additional conservation measures. The properties owned by WSSC in this area are already preserved, resulting in no remaining opportunities for conservation. This unique public land ownership pattern, and the isolated nature of Area 1, does not justify the placement of these lands in Tier IV.

Justification for Tier III designation: This area and Area 6 have been shown as Tier III on all draft maps of the SGA Tiers and are shown as Tier III on the final approved map because of their unique ownership by a regional public utility and because they are isolated from Tier IV areas where conservation should be targeted. The designation of this area as Tier III is appropriate because the properties are primarily owned by a regional public utility, are not within the PPA, are isolated from the large block of Tier IV,

and are bounded on all sides by SGA Tiers I and II. In any event, this area is not at risk of further development.

Area 2 - Properties at MD 450 and MD 3

The guiding land use document for Area 2 is the 2006 *Bowie and Vicinity Approved Master Plan and Sectional Map Amendment* in addition to the 2002 General Plan and its related functional master plans. The properties in Tier III labeled as Area 2 are zoned R-A to provide a "gradual residential transition" between the Developing Tier and the Rural Tier.

The subject properties were rezoned in the 2006 master plan from R-R to R-A to "protect the historic church and environmentally sensitive areas and provide for a gradual residential transition" into the Rural Tier. The properties were also moved from the Developing Tier to the Rural Tier. The properties retained their designation in the Ten-Year Water and Sewer Plan in sewer category 5 making them eligible for public sewer.

The Bowie and Vicinity Master Plan describes the desired land use and development pattern for the portion of the Rural Tier in the Bowie area as follows:

"The land use character and development pattern throughout the Rural Tier [that is part of this master plan] is *low-density residential* consisting of two to five-acre home sites, farms, some existing businesses, and public open space." [emphasis added]

Justification for Tier III designation: Although the properties that comprise Area 2 are within the designated PPA, they are planned for low-density residential uses, zoned for two-acre residential development, and are in sewer category 5, making them eligible for public sewer service. The criteria for Tier III designation of this area have been met.

Area 3 – Properties East of US 301

The guiding land use document for Area 3 is the 2006 *Bowie and Vicinity Approved Master Plan and Sectional Map Amendment* in addition to the 2002 General Plan and its related functional master plans. The properties in Tier III labeled as Area 3 are planned for low density residential uses in a rural setting.

The Bowie and Vicinity Master Plan describes the desired land use and development pattern for the portion of the Rural Tier in the Bowie area as follows:

"The land use character and development pattern throughout the Rural Tier [that is part of this master plan] is *low-density residential* consisting of two to five-acre home sites, farms, some existing businesses, and public open space." [emphasis added]

The subject properties are outside the Priority Preservation Area and are zoned R-A which allows two-acre residential lots. This is a transitional zone from properties that have existing or planned land uses of greater intensity to a more rural character. The properties to the northwest of the subject properties were rezoned in 2006 from R-A to C-S-C and are approved for a shopping center with 600,000 square feet of commercial space and a 150-room hotel. The properties to the northeast of Area 3 are owned by M-NCPPC and operated as a regional park with multiple lighted ballfields. The properties to the west are

being developed with single-family detached houses in a subdivision approved using the provisions of the subdivision ordinance that preceded the requirement for developing using the conservation subdivision approach in the Rural Tier.

Justification for Tier III designation: The properties within Area 3 are not within the PPA, they are planned for low-density residential uses, and are zoned for two-acre residential development. The properties are also bounded to the north and west by land within Tier I. The criteria for Tier III designation of this area have been met.

Area 4 – Properties in the Upper Marlboro Area

The guiding land use document for Area 4 is the 1993 *Subregion VI Study Area Approved Master Plan and Sectional Map Amendment* in addition to the 2002 General Plan and its related functional master plans. The properties in Tier III labeled as Area 4 are planned for rural residential uses on the future land use map.

The vision for the communities in this portion of the Rural Tier is:

"The SMA established which communities were intended for advancement in the development process. Large parts of the Mount Pleasant, Queensland and Melwood communities were placed in **the R-A Zone** (single family homes on two acres) as a holding zone until future public policy decisions would determine the future character and timing of development." [emphasis added]

Area 4 is located within the designated "Queensland Community" which is described in the plan as follows:

"Queensland contains extensive tracts of land in farming or estate use, similar in many ways to the Rural Planning Area east of US 301. It presents *a good opportunity for eventual development* in accordance with the goals, concepts and objectives stipulated in the General Plan. Many of the estates have equestrian related activity. Several recent development proposals in this and other communities have featured an equestrian theme, providing an economical way for horse owners to preserve a way of life. Established single-family detached subdivisions in the R-R Zone (single family homes on 20,000 square feet) exist at Queensland and Maryvale.

"The plan supports retention of the Queensland Community in Rural Residential use, consistent with the objective to retain the existing established character of the rural areas within the Subregion VI Study Area. Therefore with the exception of the committed subdivisions at Queensland and Maryvale it is recommended that *the community remain in the two-acre (R-A) zoning*." [emphasis added]

The Preliminary Subregion 6 Master Plan and Sectional Map Amendment (2009) describes Area 4 as follows:

"The contiguous parcels located south of MD 4 between South Osborne Road and Old Crain Highway should be examined for the application of an equestrian and agricultural heritage-themed, R-L CDZ, which could serve as a gateway to this area in the county and make use of the recently approved well and septic systems."

The master plan text supports the development of this area on two-acre residential lots using the required conservation subdivision method or the residential development using a comprehensive design zone approach with resulting densities of 0.5 to 1.5 dwelling units per acre. Under both scenarios, Area 4 is planned and zoned for large lot residential development in keeping with the Tier III designation.

In summary, this area of Tier III is comprised of primarily existing large lot subdivisions with a rural character. The existing parcelization in this area is considerable, and the remaining agricultural and forestry uses are fragmented both internally (within the Tier III area) and externally (within the adjacent and abutting Tier I areas). While the area contains a few large parcels that are not developed or currently protected by conservation easements, the planned land uses are not agricultural or forestry uses and the existing fragmentation make them less desirable for permanent conservation. If the large parcels were placed in Tier IV they would be fragmented and isolated areas of Tier IV, surrounded by Tier III.

Justification for Tier III designation: The properties within Area 4 are not within the PPA and are bounded on three sides by Tier I and II areas and on one side by Tier IV. The character of this area has long been one of large lot subdivisions with a rural character and the planned land use is large lot residential subdivisions. A Tier IV designation in this area would not meet the SB 236 definition of "planned for agricultural and forestry uses" because while these uses currently exist in some portions of Area 4, they are fragmented, and the predominant use, both existing and planned, is large lot subdivisions. The criteria for Tier III designation of this area have been met.

Area 5 – Properties in the Accokeek Area

The guiding land use document for Area 5 is the 1993 Subregion V Approved Master Plan and Sectional Map Amendment in addition to the 2002 General Plan and its related functional master plans. The properties in Tier III labeled as Area 5 are designated as Semi-Rural Areas in the master plan.

Areas designated as Semi-Rural Areas are a subset of the larger Rural Living Areas designation in the plan. The relevant text from the plan that describes Semi-Rural Areas as follows:

- "Within the Rural Living Areas, the following density levels and land use policies should be observed....
 - Semi-Rural Areas. These are areas where a mixture of semirural, large-lot residential or rural
 hamlet lifestyles may evolve with or without use of the public sewer services that already exist
 around and through the area." [emphasis added]

One subdivision in the center of this area was developed using public sewer because of its availability and the poor soils present in the area. The use of public sewer resulted in a reduction in the amount of clearing necessary for development and an increase in the amount of open spaces preserved. This subdivision is the exception rather than the rule in this portion of the Rural Tier as other subdivisions in the area have been built using individual septic fields.

The Preliminary Subregion 5 Master Plan and Sectional Map Amendment (2009) also contains language providing guidance for this area in general; however, the plan does not provide text that specifically addresses the properties contained within Area 5. The land use map contained in the plan designates Area 5 as "rural" which is described as follows:

"Agricultural land (cropland, pasture, farm fields), forest, very low density residential. The county's intent is for these areas to remain rural and to conserve these areas' natural resources, primarily forest and forest resources, for future generations. *New residential development is permitted at a maximum density of one dwelling unit per five acres*." [emphasis added]

The properties that make up Area 5 are located generally north of Accokeek Road and east of Danville Road (see maps in Appendix 9). While they are not mapped separately in the Subregion 5 master plan from the areas to the south, they are zoned R-A which allows densities of up to one dwelling unit per *two acres*. The properties to the south are zoned O-S which permits a maximum density of one dwelling unit per *five acres*. As such the "rural" description above does not apply to those properties to the north of Accokeek Road and east of Danville Road that make up Area 5.

Justification for Tier III designation: Area 5 is outside the PPA and is bounded on three sides by Tier I. Public sewer lines exist within this area and serve an existing subdivision. The area is heavily parcelized and the agricultural and forestry areas that remain are fragmented by subdivisions and sand and gravel mines. Placing Area 5 in Tier IV would be contrary to the existing zoning and planned land uses of the area. Based on this analysis, the Tier III mapping criteria have been met for Area 5.

Area 6 - Broad Creek Rural Tier

The guiding land use document for Area 6 is the 2006 Henson Creek – South Potomac Planning Area Approved Master Plan and Sectional Map Amendment in addition to the 2002 General Plan and its related functional master plans. The conceptual land use plan designates properties in this portion of the Rural Tier as "residential with a rural character and government-owned."

The Henson Creek Plan states the following with regard to the Rural Tier in this area:

"The Rural Tier in the master plan area comprises 468 acres, or approximately three-quarters of one square mile, generally located along the eastern shore of Broad Creek Bay. It includes the slightly smaller Broad Creek Historic District, which encompasses all but 43 acres of the Rural Tier. The Rural Tier is a semirural enclave that is nearly surrounded by suburban residential subdivisions, commercial shopping areas, and major highways. Approximately three-quarters of the Rural Tier is owned by public entities (M-NCPPC, the federal government, WSSC, and PEPCO). A large proportion of the publicly owned land is located within the 100-year floodplain for Broad Creek and is heavily wooded.

The land use character for the private land within the Rural Tier is *predominantly low-density residential*, with two commercial businesses and several wooded parcels." [emphasis added]

This portion of the Rural Tier, like Area 1, is small, is isolated from other Rural Tier areas and is predominantly in public ownership.

Justification for Tier III designation: This area and Area 1 have been shown as Tier III on all draft maps of the SGA Tiers and are shown as Tier III on the final approved map because of their predominance of public land ownership and because they are isolated from Tier IV areas where conservation should be targeted. The designation of this area as Tier III is appropriate because the properties are primarily owned by public entities, are not within the PPA, are isolated from the large block of Tier IV, and are bounded on all sides by SGA Tiers I and II. In any event, this area is not at risk of further development.

Implementation

In addition to making the necessary changes to local land development review processes, Prince George's County will be undertaking several projects aimed at implementing the goals of SB 236 and the 2012 *Priority Preservation Area Functional Master Plan*.

Prince George's County intends to seek certification from the Maryland Agricultural Land Preservation Foundation (MALPF). A successful certification application will result in more funding being available to implement the goals of SB 236 and the state's overall rural conservation goals. MALPF certification will also serve to complement the existing agricultural preservation programs at the county level through the Historical Agricultural Resource Preservation Program (HARPP) and the Purchase of Development Rights Program. The county's dedication to agricultural preservation has been demonstrated through the expenditure of county funds to support these programs.

Prince George's County also will be implementing the provisions of SB 236 that allow for a transfer of development rights (TDR) program within Tier IV designated areas. The goals for the TDR program are to provide "sending" properties with incentives not to develop, to continue to increase the number of viable farms in the Rural Tier, and to provide opportunities for more meaningful conservation of larger blocks of agricultural land. This program may also result in some property owners being able to recoup some of the land value lost because of the Tier IV designation.

In addition, the county will continue to support a diversified palette of tools for sustaining farming and forestry as viable economic sectors. Changes to the Zoning and Subdivision Ordinances in the past ten years have encouraged new agricultural activities such as wineries, agri-tourism and equestrian uses, and facilitated the sale of locally grown products at farmers markets and other outlets. The county will continue to help farmers transition to new products and new markets, in order to keep farmland in production and diminish the incentive for conversion to subdivisions.

Conclusion

Prince George's County has complied with the requirements and the guidelines of SB 236 through the timely approval of an SGA Tier map and the necessary legislation for implementation. The SGA Tier map reflects the mapping criteria of SB 236, PlanMaryland and local land planning documents.

The SGA Tier map will become part of the General Plan when it is updated. During the planning process for the General Plan, the SGA Tier map will be evaluated for conformance to the goals, policies and strategies contained in the updated plan.